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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-00538(MKB)
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-against- : United States Courthouse
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NG CHONG HWA, : April 4, 2022
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Defendant. : 9:30 a.m.
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TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES CHIEF DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: BREON PEACE, ESQ.
Acting United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

BY: ALIXANDRA SMITH, ESQ.
DREW ROLLE, ESQ.
DYLAN STERN, ESQ.
BRENT WIBLE, ESQ.
JENNIFER AMBUEHL, ESQ.
Assistant United States Attorneys

For the Defendant: BRAFMAN & ASSOCIATES, P.C.
256 Fifth Avenue, 2nd Floor
New York, New York 10001

BY: MARC AGNIFILO, ESQ.
TENY GERAGOS, ESQ.
ZACH INTRATER, ESQ.
JACOB KAPLAN, ESQ.

Court Reporter: DENISE PARISI, RPR, CRR
E-mail: DeniseParisi72@gmail.com

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Proceedings

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1 (In open court; jury not present.)

2 THE COURT: Good morning, everyone. Please be
3 seated.

4 You can call the case.

5 THE COURTROOM DEPUTY: Criminal cause for trial,
6 docket number 18-CR-538, United States of America versus Ng.

7 THE COURT: And same appearances for the record.
8 Are we ready to proceed?

9 MS. SMITH: Yes, Your Honor.

10 THE COURT: Are there any additional proposed edits
11 to the jury instructions?

12 MS. SMITH: No, Your Honor.

13 THE COURT: Okay. Bring in the jury.

14 (Jury enters.)

15 THE COURT: Please be seated, everyone.

16 Good morning, members of the jury.

17 THE JURY: Good morning.

18 THE COURT: I see you all missed each other. You
19 were gone for so long. Welcome back.

20 THE JURY: Missed you, too.

21 THE COURT: Well, we're going to hear summations
22 today.

23 Does the Government rest its case?

24 MS. SMITH: Yes, Your Honor, the Government rests
25 its rebuttal case.

Summations - Ms. Smith

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1 THE COURT: Okay.

2 We'll start with summations from the Government, and
3 then from the defense. I assume that the summations by each
4 side will be approximately three hours, as they told me, and I
5 told you last week. We'll take a break in the middle of the
6 summations so that we can all use the restroom, and then we'll
7 come back, and that will be what we will hear all day today.
8 I expect that we'll continue rebuttal summations tomorrow, as
9 I indicated, and then I will charge you on the law and you
10 will have the case to deliberate.

11 Remember, the summation is not evidence. This is
12 the parties' opportunity to tell you what they believe the
13 evidence shows.

14 Who is summing up for the Government?

15 MS. SMITH: I am, Your Honor.

16 THE COURT: Okay. Ms. Smith, are you ready to
17 proceed?

18 MS. SMITH: Yes.

19 THE COURT: Okay.

20 MS. SMITH: Can you hear me okay?

21 The defendant, Roger Ng, played a critical role in a
22 massive bribery and money laundering scheme to steal billions
23 of dollars from the Government of Malaysia and use it to pay
24 bribes to powerful government officials in Malaysia and Abu
25 Dhabi.

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1 What was that critical role? The defendant had to
2 convince Goldman Sachs, the New York-based bank where he
3 worked, to sign off on three bond deals that raised money for
4 1MDB, a company owned and controlled by the Malaysian
5 Government. The money that Goldman was raising was supposed
6 to go to projects for 1MDB to develop Malaysia's economy, but
7 the defendant knew and agreed that the money would go instead
8 to pay off government officials in Malaysia and in Abu Dhabi
9 who were involved with the deals. He also knew that Goldman
10 would never do the bond deals if Goldman knew that the money
11 would be used for bribes, so he worked with Jho Low and with
12 Tim Leissner to bring the bond deals to Goldman and to make
13 them look legitimate, and he worked with Leissner and others
14 to lie to Goldman's committees to hide information from those
15 committees so that those committees would authorize the bond
16 deals.

17 Why did he do it? Simple. Glory and agreed.

18 The defendant was making millions of dollars a year
19 as a banker at Goldman Sachs, but that wasn't good enough for
20 him. He wanted the glory of bringing in the biggest deals
21 that Goldman had ever done in Asia, to move up at the bank
22 from managing director to partner; and, most importantly, he
23 wanted the money he had been promised if the scheme succeeded,
24 which ultimately was \$35 million.

25 \$35 million. It's an almost incomprehensible amount

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1 of money for one person; and, truly, the numbers in this case
2 are staggering. More than a billion dollars in bribes were
3 paid to a dozen officials in the governments of Malaysia and
4 in Abu Dhabi, including to officials at 1MDB and IPIC, and at
5 Aabar. Low, himself, received more than a billion dollars.
6 The numbers are so high that they start to sound meaningless,
7 but let's not lose track of why the numbers are so high. It's
8 because that money was supposed to go to help the people of
9 Malaysia on a national level -- billions of dollars to build
10 roads, to improve the country's power grids, and to better
11 their lives -- and, instead, the defendant and his
12 co-conspirators stole that money. The defendant took it to
13 pay bribes, to make money for Goldman, and to make money for
14 himself.

15 So let me take a moment to step back and give you a
16 sense of what you are going to hear this morning. My job is
17 to summarize the evidence for you. I won't be able to mention
18 every single piece of evidence, otherwise we would be here for
19 another two months, but I will help you piece together the
20 evidence that you have heard from the witnesses who testified
21 and all of the documents that you've seen so that you can see
22 the big picture, and the big picture is this: There is
23 overwhelming evidence that the defendant agreed with others to
24 participate in the bribery and money laundering scheme I
25 described, and he also agreed with others to hide key

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1 information from Goldman Sachs in order to fraudulently get
2 the bond deals approved. As a result, he is guilty of the
3 three crimes that he has been charged with.

4 The first crime is conspiracy to violate the
5 antibribery provisions of the Foreign Corrupt Practices Act --
6 or FCPA -- by paying bribes to foreign officials to get
7 business for Goldman. And, remember, I expect Judge Brodie to
8 instruct you that a conspiracy is just an agreement.

9 The second crime is conspiracy to violate the
10 internal accounting controls provisions of the FCPA by
11 circumventing or getting around Goldman's internal accounting
12 controls by providing false information and concealing other
13 information in order to fraudulently get Goldman's committees
14 to authorize the deals.

15 And, finally, conspiracy to commit money laundering,
16 which makes it a crime to send money in, out, or through the
17 United States when the money is from a crime and the purpose
18 of the transfer is to conceal the source of the funds; to send
19 money in, out, or through the United States in furtherance of
20 a crime; or to spend or transfer over \$10,000 in dirty money
21 in the United States.

22 So just two quick notes before we start walking
23 through the evidence itself.

24 First, Judge Brodie is going to instruct you on the
25 law after all of the summations are completed, and what she

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1 tells you on the law is what controls. However, towards the
2 end of my presentation, I am going to preview some of the
3 legal elements that we will prove beyond a reasonable doubt
4 for each of these three crimes.

5 Second, because what lawyers say is just argument,
6 you will not be able to get a copy of what I say or of the
7 slides that I'm going to use to help us walk through the
8 evidence today, but I will put on those slides and try and
9 mention exhibit numbers and transcript sites for testimony as
10 we go along -- and you can take notes, if you'd like -- and I
11 expect that Judge Brodie will instruct you that you can ask to
12 see any of the exhibits or testimony again as you deliberate.

13 With all of that said, we're going to start today by
14 doing what my colleague, Mr. Wible, talked about in his
15 opening statement way back in February, and that is to follow
16 the money.

17 We're going to look at the actions of the defendant
18 and his wife, Hwee Bin Lim, and of Tim Leissner and his wife
19 Judy from the moment when Project Magnolia was approved by
20 Goldman's committees until when the transfers of money from
21 the bribery scheme hit the Silken Waters Victoria Square
22 account in June 2012, in July 2012, and then in September of
23 2013; and you are going to see that all of these actions are
24 consistent with the defendant's guilt; that is, the defendant
25 knew that the money came from his own crimes. That's why he

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1 and Ms. Lim urgently needed to open the Silken Waters Victoria
2 Square account to take care not to be connected to that
3 account and to lie about where the money in that account was
4 coming from; and I further submit that you will see that the
5 defendant's actions are inconsistent with what Ms. Lim
6 testified about last week regarding the money. Once we do
7 that, we'll take a step back and take a look at the broader
8 schemes, and then walk through the evidence start to finish
9 starting with the development of the defendant's relationship
10 with Low in 2008, going all the way through the criminal
11 conspiracies, and ending with the defendant's more recent
12 conduct, including his deletion of email accounts that were
13 used in furtherance of the schemes in an attempt to cover up
14 his crimes.

15 So, as I said, let's start by following the money.

16 This is a timeline of the period between May 18,
17 2012, when Goldman's committees approved Project Magnolia
18 through July 16th, 2012, when the second of the first two
19 transfers hits the Silken Waters Victoria Square account.
20 This is a timeline that Special Agent Sean Fern walked through
21 in great detail during his testimony, and I want to walk
22 through it again today with you with some of the other
23 evidence that we've seen in the case, because, as I said, it
24 is consistent with the defendant's guilt and his knowledge
25 that the money was coming from the bribery scheme. So we're

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1 going to start May 18th, which is when the Goldman committees
2 approved Project Magnolia; and, like I said, I will walk
3 through all of this evidence and we'll come back to the
4 timeline again at the end.

5 So on May 18th, the Goldman committee has approved
6 Project Magnolia, and the first date that we're going to look
7 at is May 20th, two days later; and on May 20th, both the
8 defendant and Tim Leissner are taking actions to prepare to
9 receive the money from the bribery scheme that they know is
10 coming, and they both do this in a way that separates
11 themselves from the money that's going to come in, so they're
12 making sure that they're setting up accounts that are not in
13 their name, or using accounts that are not in their name, to
14 separate themselves from the money that's going to come in.

15 So the first thing that happens -- this is
16 Government Exhibit 2276 -- is Tim Leissner, on his personal
17 account, emails Judy Leissner and asks her to send him the
18 account information for two shell companies that they already
19 had, and he wants U.S. dollar denominated accounts because he
20 knows the money is going to come in in dollars; and he says,
21 we should also tell the bank that we will receive a transfer.
22 This is May 20th, 2012. They think the money is coming in
23 right after Project Magnolia closes. So he gets the
24 information from the Capital Place account that he's
25 ultimately going to use to receive the money.

1 At the same time, the defendant's wife, Ms. Lim,
2 places a 22-minute call to UBS banker Evelyn Teah, and this is
3 the call where Ms. Lim is setting up the account that she will
4 use to receive the defendant's cut of his money from the
5 bribery scheme. So, again, at the same time, this movement by
6 both the defendant and Mr. Leissner, to prepare to receive the
7 money that they know is coming.

8 One day later, on May 21st, 2012, Goldman sends the
9 funds from the Project Magnolia to the 1MDB Energy account --
10 almost a billion dollars get transferred. Both the defendant
11 and Mr. Leissner are notified of this because they are on the
12 Project Magnolia email lists, and you can see that this was a
13 transfer that went through a correspondent bank in the United
14 States that was processing transactions in New York, so it is
15 also a transfer that passed through the Eastern District of
16 New York.

17 So as that money is moving on May 21st, 2012, let's
18 see what the defendant is doing.

19 So this is the point at which Ms. Lim, having had
20 that conversation, is ready to set up the shell company and
21 the bank account that's going to receive the money; and if we
22 start with the email, which is Government Exhibit 2463,
23 Ms. Lim says at the bottom she -- she, sort of, goes through
24 that list of shell companies that was sent to her -- and we
25 call them shelf companies, because they were shell companies

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1 that were already set up -- she picks the name Silken Waters,
2 and says at the beginning she wants to have the name changed
3 to Victoria Square. She also says to the banker, Evelyn Teah:
4 I am quite easy to meet her at her convenient place -- and
5 she's talking about setting up a meeting in order to get the
6 bank account set up -- and it's important to note that she
7 says "I am quite ready to meet her" -- "I" and not "we," which
8 means that this is an account that she's setting up -- and she
9 also tells the banker that they can drop by my place, my
10 address, not where her parents were living in Terengganu, not
11 where KC Tan was, but it's clear from every document that you
12 are going to see that it is an account that Ms. Lim was
13 setting up for herself and her husband and that they fully
14 intended to use.

15 The other way that we know that it's an account for
16 Ms. Lim and for the defendant is that the name is going to be
17 changed to Victoria Square. That's the name of the
18 defendant's daughter, who was born shortly thereafter, and
19 it's the same name that the defendant and Ms. Lim used for all
20 the shell companies that they set up in 2014 -- those Victoria
21 Corp. shell companies that Ms. Lim testified about. This was
22 always going to be the defendant's account.

23 The other way that you know that is because there's
24 an email address at Victoria Square investment at Gmail that
25 gets set up on June 17th, so -- sorry, May 17th, which is --

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1 sorry, June 17th, which is right after the first transfers
2 come in, and that account is the one -- that email account is
3 the one that is used by the defendant to monitor what is going
4 on in the Silken Waters Victoria Square account, and we are
5 going to see that as we walk through.

6 And, speaking of email accounts, on the same day
7 that Ms. Lim sets up the meeting to set up the bank account,
8 the KC Tan email is also created on that same day and the IP
9 address that is used to create the KC Tan account is the same
10 IP address that the Roger Ng 1 at Gmail address logs into in
11 the same month; and so we know that this KC Tan email address
12 was used to set up to impersonate Ms. Lim's mother-in-law and
13 to keep track of what was going on in and out of the account.

14 So let's move forward one more day to May 22nd,
15 2012, and this is the day when the money is diverted from 1MDB
16 Energy to that fake Aabar account. If you remember, Aabar is
17 the subsidiary of IPIC -- that's the entity that was going to
18 give the guarantee for the bonds -- and what happened was, in
19 order to get the money out of 1MDB for the scheme, they set up
20 that fake Aabar account at the BSI Bank -- and we'll walk
21 through how they did that -- and that's the way in which the
22 money gets siphoned out of the scheme. So one day after
23 almost a billion dollars hits 1MDB Energy, that money gets
24 diverted out of the account and into the fake Aabar account,
25 which is where it's going to be sent out to all the

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1 co-conspirators from; and you know that it's Terence Geh who
2 directed this payment, because, as we saw, he had signatory
3 authority from 1MDB Energy, and he sends this email on
4 May 22nd confirming that the money has been sent out of the
5 account, and he sends it in part to Nik Faisal at SRC at
6 Gmail, which is one of the accounts that you heard testimony
7 about was used both by Nik Faisal and also by Jho Low. And,
8 once again, this transfer is a transfer that went through the
9 United States, and it was while CHIPS was processing in
10 New York, so it traveled through the Eastern District of New
11 York as well.

12 So as this money is being diverted from 1MDB Energy
13 to the fake Aabar account, what is the defendant doing?

14 So we know that the very same day, there was a
15 meeting at the defendant's house, and that meeting was to set
16 up the bank account for Victoria Square Silken Waters. It's
17 the, again, exact same day, but the money is being sent from
18 1MDB Energy to Aabar. The money is being sent to Aabar at a
19 BSI bank account, and that's really significant, because as we
20 can see from the UBS records here, which are Government
21 Exhibit 305, these, sort of, account opening summary and a
22 summary of what UBS was told about where that money was going
23 to be coming from, it says that Madam Tan explained that they
24 have recently taken profit on our equity investments in
25 Switzerland totalling about \$26 million. As such, they intend

1 to transfer these funds back from BSI to Asia. That BSI
2 reference is really significant. BSI Bank, as you heard, is
3 located in a place called Lugano, Switzerland. It is not a
4 big bank; it is not a bank that you would, sort of, pluck out
5 of the air and think of for a transfer, and the reason that
6 the bank was told that the money was going to come from BSI is
7 because the defendant had been at that meeting in Singapore
8 exactly a month before at which he understood that the BSI
9 bank account would be the bank account used by fake Aabar to
10 take money out of the scheme; and in order to make these
11 transfers sound legitimate, he told his bank that the money
12 was going to be coming from BSI because he expected at that
13 point in time to get the money directly from the fake Aabar
14 account. It is not an accident that BSI Bank just happens to
15 show up in the UBS documents as the place that the money is
16 going to come from.

17 If we can go to May 23rd, we also know that the
18 defendant and Ms. Lim were trying to set up this account
19 urgently, and that's right there in the email from UBS Bank,
20 which is Government Exhibit 346. They are setting the account
21 up urgently because they know that the money is coming soon,
22 and they expect the money to be coming soon, and they want
23 this account ready to go, and they put it in the name of the
24 defendant's mother-in-law, again, to conceal their connection
25 to the account, to keep their distance from the account, and

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1 so they put it in the name of Tan Kim Chin, but you know that
2 all of the contact information for Tan Kim Chin always
3 includes contact information for Ms. Lim, and sometimes the
4 defendant. Here, they put Ms. Lim's phone number for Tan Kim
5 Chin, and the email accounts that they used for this account
6 are the KC Tan 9983 at Gmail, which is the account that gets
7 created by Ms. Lim and the defendant to, sort of, impersonate
8 their mother-in-law, and also the victoriasquareinvestment.com
9 email, which is the email that Ms. Lim admitted that she and
10 the defendant used, and which was used to keep track of what
11 was going on in the account.

12 And then the next day on May 24th, 2012, the opening
13 documents for the account get signed. And, again, we're using
14 the name Tan Kim Chin, but we're using Ms. Lim's phone number
15 on the account.

16 The next day, May 25th, 2012, the proceeds keep
17 moving through that waterfall, and this time they go from
18 Aabar -- the fake Aabar account to the Blackstone Asia Real
19 Estate Partners account, which is another account controlled
20 by Jho Low and by Eric Tan Kim Loong, and this is where the
21 money is going to ultimately come from to go to Capital Place.
22 So if you keep in mind that this is May 25th, this is only
23 four days after the money is transferred from Goldman, so this
24 is all happening very quickly.

25 On May 29, 2012, just four days later, Ms. Lim

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1 receives an email to her personal email account, so the Hwee
2 Bin Lim at Gmail account from the personal email account of
3 the UBS banker, which is important -- they're, sort of,
4 keeping all of this correspondence off any official channels,
5 because anything that's done officially, she generally uses
6 either the KC Tan 9983 email or the Victoria Square email to,
7 again, keep her distance from the account; but, here, since
8 she's getting it from the UBS's bankers personal account,
9 she's using her own. And you can see that the UBS banker says
10 to her: Hi, Hwee Bin. Below is your account name and number
11 with us -- "your account name and number," because they're not
12 communicating on the official channels. And you can also see
13 that she's providing Hwee Bin with a U.S. dollar remittance
14 form, which is the form that she will need to give to another
15 bank to receive money in U.S. dollars. So, again, they are
16 preparing right at the outset to receive a transfer of funds.

17 And before we move to June, I just want to take a
18 quick look at the contacts -- the phone contacts charts that
19 Special Agent Fern walked you guys through from May of 2012.

20 And just looking at this, there's, sort of, three
21 things I want you to keep in mind. One is that Leissner and
22 the defendant speak practically every day from when the
23 committees sign off on the deal until the end of the month;
24 second, as you heard from Special Agent Fern, there were no
25 communications between Judy Leissner and Ms. Lim, not just in

1 this month, but in any of the months for which we had records
2 going back to 2008; and, number three, I want to just, again,
3 highlight that the concealment of the source of the money
4 starts from day one. We already saw the lie that was told to
5 UBS bank about the reason why they were getting money, and
6 they're concealing their involvement in these accounts by
7 using their wives to contact the banks, and the defendant is
8 doing an extra layer of concealment by not just using his wife
9 to contact the bank, but by putting it in the name of his
10 mother-in-law.

11 So, if we move forward to June 5th of 2012, about a
12 week in time, Leissner testified -- and we're going to talk
13 about this at length later -- that they had expected to
14 receive the money immediately when the deal closed -- that was
15 the reason for the urgency with the accounts -- and then that
16 didn't happen, they didn't get the money immediately, and they
17 both started to get anxious; and in order to try and get
18 things moving with Low, Leissner, at that point, offered up
19 Capital Place. He said, I'm happy to, sort of, take on
20 responsibility to do some of these transfers if that can get
21 the money into us faster; and that's when the plan changed
22 from getting the money directly from the Low accounts and from
23 BSI to actually having Capital Place be involved in passing on
24 some of the transfers. And you can see here that Leissner is
25 sending the defendant -- and, again, Leissner is sending the

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1 defendant, not Judy Leissner is sending Hwee Bin Lim, but
2 Leissner is sending the defendant the Capital Place details
3 for the bank account that is going to make the transfer to his
4 account; and you can see that that's both on their personal
5 email addresses, and it's the account details, and it's the
6 information that the defendant will need to receive the bank
7 transfer into his account, and that's on June 5th.

8 If we go forward to June 11th, that's exactly what
9 happens next. \$35 million gets transferred from Blackstone to
10 Capital Place, which is Leissner's controlled account in his
11 wife's name, and the money is then going to be split evenly.
12 Exactly half of it is going to go on to the Silken Waters
13 Victoria Square account.

14 And, again, before we look at the transfer itself,
15 if we look at the phone contacts for June of 2012, we can see,
16 again, that Leissner and Roger Ng are communicating by phone
17 every day from the 11th when the money hits Capital Place to
18 the 14th when the transfer to Silken Waters Victoria Square is
19 finished; and Ms. Lim is also speaking to Ms. Khng, the UBS
20 banker, every single day until the funds come in, and then
21 they speak at length on the date that the funds actually hit,
22 which is June 14th.

23 And here we have the confirmation of that payment
24 itself, so that \$17.5 million that gets transferred from
25 Capital Place to the Silken Waters Victoria Square account is

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1 exactly half of the \$35 million that Leissner had received in
2 the Capital Place from the scheme; and, once again -- we'll
3 talk about this a lot -- the wire transfer was one that was
4 processed by CHIPS, so it passed through the United States,
5 and it also passed through the Eastern District of New York,
6 because it was a day on which CHIPS was processing its
7 transfers to New York. So that's the first payment that comes
8 in.

9 A few weeks later on July 9th, Capital Place gets
10 the next transfer of criminal proceeds from Blackstone.
11 That's the \$16.96 million on July 9th, and we can see that on
12 Eric van Dorn's chart, which is Government Exhibit 151, and
13 then what happens after that is, again, very critical.

14 So the money comes in on July 9th, it gets
15 transferred out of Capital Place to Silken Waters Victoria
16 Square on July 16th, and that's a transfer of \$6.9 million;
17 and what we see in this email, which is Government
18 Exhibit 2297, is that Judy Leissner is emailing herself the
19 information for the transfer that she is going to direct out
20 of Capital Place and into Silken Waters Victoria Square. It's
21 an email to herself; it is not an email to a bank or to
22 anybody else. And in that email, she writes, for her own
23 purposes, the true purpose of the transfer; and it says right
24 there in big letters, "for Roger," because this is a transfer
25 that she was being directed to make by Tim Leissner to the

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1 Silken Waters Victoria Square account on behalf of the
2 defendant, Roger Ng. We are going to see this again when we
3 look at the transfers in July, but this is one of the best
4 ways that you know that this is the reason why this transfer
5 is happening.

6 And, in fact, the transfer gets made on July 16th;
7 it hits the account on July 17th -- this is confirmation of
8 the payment -- and, once again, the transfer is sent by wire
9 through the United States via CHIPS, and CHIPS is processing
10 in New York at this point, so it also travels through the
11 Eastern District of New York.

12 And, once again, if we go to the call calendar for
13 July of 2012, the defendant and Leissner speak almost every
14 day between when the money comes into Capital Place and when
15 the money hits the Silken Waters Victoria Square account.
16 And, if you remember from Special Agent Fern's testimony, on
17 July 16th, that's the day that Leissner and the defendant
18 speak and that Leissner directs Judy to make the transfer for
19 Roger. Leissner is in the United States on that date for
20 work, and he was speaking to the defendant from the United
21 States.

22 So, again, if we go back to the timeline of this
23 critical period, we have, starting on May 18th, the Goldman
24 committee has approved Project Magnolia; we have all of the
25 steps the defendant and Ms. Lim take to set up the Victoria

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1 Square Silken Waters account urgently; we have the money
2 moving out of 1MDB into fake Aabar, and then eventually to
3 Capital Place and on to Silken Waters; we have all of the
4 communications between the defendant and Leissner; and we have
5 the emails that show that the transfer was for Roger; and all
6 of the communications that show us that, again, the defendant
7 and Leissner were preparing to receive their cut of the
8 criminal proceeds at this time.

9 So in continuing to follow the money, I want to move
10 forward to the second set of transfers that the defendant
11 received as kickbacks in the time period from August to
12 September of 2013; and, again, I'm going to walk through the
13 underlying evidence, but this is the chart that Special Agent
14 Fern testified about, and we are going to start on August 22,
15 2013.

16 What happens first is Ms. Lim calls the cell phone
17 of one of the UBS bankers, and then we get here that UBS sends
18 incoming wiring instructions to the Ng email addresses. So
19 the fake KC Tan 9983 Gmail account, the one that's being used
20 to impersonate the defendant's mother-in-law, and then the
21 Victoria Square Investment at Gmail account. So following the
22 phone call, they get this email, which is attaching, again,
23 the information for wire transfers, and it's the information
24 they're going to need to give to Capital Place in order to get
25 the transfer. So they know at this point on August 22, 2013,

Summations - Ms. Smith

5200

1 that more money is going to be coming into the account.

2 And I want to just take a moment and pause on the
3 Victoria Square Investment at Gmail account. I told you
4 before that that account was created on June 17th, 2012, so
5 shortly after the first transfer, and we have the testimony
6 here from Ms. Lim last week at transcript page 4700, and she
7 said that she created this account to have access to, quote,
8 "all of the advisory, the research papers, or anything that I
9 need to communicate that is otherwise not specifically for the
10 purpose of the transactions that are going to be transacted in
11 the account," and it's really significant that this
12 testimony -- that you think about this testimony and why this
13 testimony is not credible, because you can see -- and you will
14 see it throughout the next few emails that we're going to look
15 at -- that this email account, which Ms. Lim admitted that
16 both she and the defendant had access to, was not used to just
17 get random research papers from the bank, but was, in fact,
18 used to monitor the transactions that were happening in the
19 bank as they were happening; and so it's important to, sort
20 of, understand that and to keep in mind that that is why the
21 defendant was using this email address -- again, an email
22 address not with his name, but to get the information -- and
23 you will see when information comes in that's important to the
24 transfers, he then acts on it.

25 So moving forward to September 5th, 2012, this is an

Summations - Ms. Smith

5201

1 email from capitaladvisors@ymail.com, and you heard testimony
2 that this was an account that Leissner set up similar to the
3 Victoria Square Investment account, an email address that
4 doesn't have his name and that he can use to discuss money
5 transfers related to the crimes with. And this is an email
6 that the subject line is "for next week," and it's an email
7 where Leissner is directing Judy Leissner what to do and what
8 transfers to make. He says "for next week" because that's
9 when he's finally going to transfer money from Capital Place
10 to the defendant, as Low had directed him to do, for their
11 second round of payments for the kickbacks from the scheme.
12 And just to keep in mind, as we move forward, two things.
13 One, again, that this is Leissner directing his wife and not
14 the other way around; and then just note that both the account
15 number there and the name are slightly off; it was an old
16 account number, and the name says Victoria Square Investments
17 Limited, and that will become important in a minute.

18 In the meantime, we move forward from September 5th
19 to September 17th, the next week, as he says, and he resends
20 that transfer information to Judy Leissner. And this, again,
21 is one of the most important emails in the case, because what
22 he says -- if you can look, I, sort of, have one and two on
23 the screen so you can see which email comes first on the
24 chain; but, first, he basically resends that transfer
25 information to Judy Leissner, and then Judy Leissner responds,

Summations - Ms. Smith

5202

1 and what she says is: 11, question mark. Sending 6.5 million
2 from MS, the rest from Capital Place.

3 And it's crucial because it shows that Judy is
4 asking Leissner, what is the total money that I should be
5 sending to the Silken Waters Victoria Square account. It is
6 completely inconsistent with Ms. Lim's story that it was Judy
7 that was sending the money from some investment. In fact, it
8 is Judy that has to check with Leissner to double check that
9 she's sending the right amount of money to Roger Ng; and if
10 there was any question, you should look at the rest of the
11 email chain. Leissner follows up and says -- first he says:
12 Okay, thanks. And then he says: Actually, instead of the 11
13 million to Roger Ng, let's send 10.7 million, and let's keep
14 the extra \$300,000 for myself and put that in my account in
15 Singapore. So, Judy, it's not 11 the way I might have told
16 you before, it's actually 10.7.

17 And let's look at the next slide, which is the
18 record of the transfers themselves, and we see that indeed
19 what is going to happen is that a total of 10.7 million -- not
20 11 million -- is going to be transferred from Capital Place
21 and Judy Leissner's Morgan Stanley account into Silken Waters
22 Victoria Square. Again, this is entirely inconsistent with
23 this being the final payment on some investment. In that
24 case, Tim Leissner couldn't randomly change the amount of
25 money that was being sent. What it is consistent with, and

Summations - Ms. Smith

5203

1 that what you already know from the evidence, is that this is
2 a payment that Roger Ng was receiving for his participation in
3 the criminal scheme, and Tim Leissner was directing Judy to
4 make that payment; and when he did that, he changed the total
5 amount from 11 to 10.7 because he kept \$300,000 for himself.

6 I want to take a very brief look to at what happens
7 with the transfers themselves because I think this is
8 additional evidence of the defendant's knowledge that the
9 transfers were coming in.

10 Remember how I said when we were looking at the
11 email that Leissner got two pieces of information wrong? He
12 used an old account number, and he had the name of Victoria
13 Square slightly wrong. Well, as we can see from these emails,
14 the two transfers actually bounce back; they didn't go through
15 because they had the wrong information. And look at who gets
16 notified of the transfer issues. Both the KC Tan fake email
17 account and the Victoria Square Investment at Gmail account;
18 and that's, again, the defendant keeping track of what's going
19 on with the transfers not randomly receiving research reports
20 into that email account.

21 And, again, what we can see happens is that Leissner
22 finds out that the transfers didn't go through, and he directs
23 Judy on what to do instead. So he says: The receiving end
24 made two typos. It reached UBS, but we need to resend the
25 information.

Summations - Ms. Smith

5204

1 And the two emails on the right are both emails from
2 his phone to Judy, and it's Leissner instructing Judy what to
3 do to fix the transfers because it's Leissner sending the
4 money to the defendant. So first he says: The girl, Fanny
5 Khng, at the bank needs the updated SWIFT instructions, and
6 then he sends Judy Fanny Khng's contact information because he
7 wants Judy to be the one dealing with UBS because, again, he's
8 keeping himself -- and the defendant is keeping himself --
9 away from the transfers. Those two transfers ultimately reach
10 the Silken Water Victoria Square account on September 23rd and
11 September 24th, 2013; and, again, they were for that total of
12 \$10.7 million.

13 And then, once again, what do we see about what the
14 defendant and Ms. Lim tell UBS about those transfers? And
15 this is a call log, it's Government Exhibits 362 and 362A, and
16 it says: Source of funds. Client was in a gold PE venture
17 with her friends which has been liquidated. And then it says:
18 She has two different portions percentages with two friends,
19 because she's trying to explain why she's getting payments
20 from two accounts in the millions of dollars on the same day
21 from two different accounts; and so the explanation is this
22 was a gold venture, and there were two people that she was in
23 on it with, and one person was sending her from one account
24 and one from another. You know that's not the truth. You
25 know that the money came from the bribery scheme, but this is

Summations - Ms. Smith

5205

1 what they're telling the bank, and they're doing that, again,
2 to separate themselves from this money.

3 So, again, just to recap, we start on August 22nd,
4 2013, with the call to the UBS banker's cell phone getting
5 that U.S. dollar denomination information for the transfers
6 because they know the money is coming in, and then all of the
7 steps in between until the transfer is actually coming in,
8 including the email chain between Tim and Judy Leissner where
9 Tim Leissner is directing Judy how much money to send and when
10 to send it to the defendant.

11 And then the last thing I want to note is just
12 looking at all four transfers into the account, you heard
13 testimony from Eric Van Dorn that these were the only four
14 outside transfers that this account ever received, which is
15 further evidence that the entire purpose of setting up this
16 account was to receive the money from the criminal scheme, and
17 we're going to see that again and again as we walk through the
18 evidence in this case.

19 So, as I said, we wanted to start by following the
20 money, because I think it's one of the clearest indications of
21 the defendant's knowledge and intent and guilt, but what I
22 would like to do now is just take a step back and do a quick
23 overview of the larger bribery money laundering and
24 circumvention schemes because I actually think that there's a
25 lot about these schemes that is not in dispute. What is in

Summations - Ms. Smith

5206

1 dispute is the defendant's knowledge of them and his
2 participation in them, and that is what I'm going to spend the
3 rest of the morning talking to you about, but I want to, sort
4 of, put it in the context of the larger scheme.

5 So you have seen over the course of the trial this
6 chart a number of times, Government Exhibit Number 158, which
7 just shows you the total payments out of the bond deals to all
8 of the government officials; to Low, and the people associated
9 with Low; and to the Goldman bankers, Leissner and the
10 defendant, who were involved in the scheme. All of the
11 various bank accounts that they used to receive the funds are
12 up on the charts over there.

13 And we talked a little bit about the timing of the
14 payments; sort of, Jho Low and some of the most significant
15 government officials who needed to be bribed to receive their
16 money first, starting on May 22nd, but we can see, again, that
17 Tim Leissner and Roger Ng were incredibly critical to the
18 scheme because they received their money early and first.
19 They received their money June 11th and June 13th, their first
20 payments, far earlier than many of the government officials
21 who were involved in the scheme. And I think it will not be
22 in dispute that the government officials who received the
23 bribes in connection with the scheme played a role in the bond
24 deals; they were all involved in somehow either approving the
25 bond deals, or signing off on the bond deals, or would be

Summations - Ms. Smith

5207

1 available if there were issues with the bond deals to, sort
2 of, help things move along.

3 So the first set of officials we have is from the
4 Government of Malaysia. We have the prime minister of
5 Malaysia, Najib Razak, as well as his wife, Rosmah Mansoor,
6 and his stepson, Riza Aziz, all of whom received -- Razak and
7 Aziz received funds, and you heard about the jewelry purchases
8 that were made on behalf of Rosmah Mansoor. You saw the
9 documents, including Government Exhibit 3208, where Prime
10 Minister Razak was signing off as the prime minister on the
11 1MDB bond deals because, again, 1MDB was part of the Malaysian
12 Government.

13 We also saw that a number of the officials who
14 received bribes all worked for Prime Minister Razak as
15 advisors. You have Amhari Nazaruddin, Azlin Alias, and Yan
16 Yahaya; and you also saw emails between the defendant and
17 Nazaruddin, and between the defendant and Alias, related to
18 Goldman business; and you remember that the defendant had
19 contact information for both Nazaruddin and Alias backed up on
20 his iCloud.

21 (Continued on the following page.)

22

23

24

25

Summation - Smith

5208

1 MS. SMITH: (Continuing) There's also not any
2 dispute that 1MDB was owned and controlled by the government
3 of Malaysia which means that anyone who worked for 1MDB was a
4 government official of Malaysia and there is actually a
5 stipulation that is Government's Exhibit 3801 about 1MDB.

6 The other Malaysia government officials who worked
7 at 1MDB who got bribes, and these names have come up a lot and
8 will continue to come up as we talk through the evidence
9 today: Jasmine Loo, Zahid Taib, Terence Geh, Vincent Koh and
10 Jerome Lee.

11 And then if we move to the Abu Dhabi end of the
12 deals, if you remember, the government officials in Abu Dhabi
13 needed to receive bribes because IPIC and Aabar were going to
14 guarantee the bonds or agree to pay the bonds back if for some
15 reason 1MDB could not.

16 So this is Sheikh Mansour. He's the chairman of
17 IPIC and you can see that his name is on the letters that were
18 exchanged in connection with the deal. There is no money in
19 the bribe scheme that's been directly traced to Sheikh
20 Mansour, but you can see when we go to the next page all of
21 the money that went to other government officials in Abu Dhabi
22 that may have been passed on to Sheikh Mansour as well.

23 And, again, there's no sort of dispute that IPIC and
24 Aabar were controlled by the government of Abu Dhabi and,
25 therefore, were sort of, anyone who worked for IPIC and Aabar

Summation - Smith

5209

1 were government officials of Abu Dhabi. And, again, that's
2 Government Exhibit 3101.

3 And then here are the three Abu Dhabi officials who
4 did receive payments for the scheme who all had a role in the
5 bond deals. Al-Otaiba was the ambassador from the UAE to the
6 United States and you heard Tim Leissner say that he needed to
7 get paid because of his connections, if there were any issues
8 with the bond deals, he would be able to sort of grease the
9 wheels and knew what was going to go on. Al-Qubaisi was the
10 managing director of IPIC and Al-Husseiny was the CEO of
11 Aabar, the IPIC subsidiary, and all three of them received
12 substantial sums, in the millions and millions of dollars,
13 from the bond deals.

14 The next set of individuals who got paid in
15 connection with the scheme were Tim Leissner and the defendant
16 Roger Ng who needed to get paid for sort of bringing Goldman
17 to the table and getting Goldman to sign off on these deals
18 because they needed a legitimate, respected U.S. investment
19 bank to get these deals done and they brought them to Goldman
20 and these two were the ones who got it done. And, again, we
21 also have both Hwee Bin Lim and Judy Leissner up here because
22 their wives played critical roles in getting the money in and
23 moving the money once they received it.

24 And then the final group of individuals who received
25 payments from the scheme were Jho Low and his associates Eric

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Summation - Smith

5210

1 Tan Kim Loong and Nik Faisal. We know that their names are
2 sort of all over the bank accounts. Eric Tan Kim Loong is the
3 named beneficiary of many of the accounts and Nik Faisal, the
4 NikFaisalsrc@gmail is on a lot of the accounts, used both by
5 Jho Low and by Nik Faisal. You'll remember that e-mail
6 address was even in the Prime Minister's bank account as
7 someone to contact in connection with the criminal proceeds
8 that were coming into that account.

9 And I think there's no dispute that Jho Low is sort
10 of very much at the center of what was going on. He was the
11 key decisionmaker for 1MDB. Behind the scenes, he sort of set
12 up the bond deals, he directed transfers and he received more
13 than \$1 billion. But I think what's really important and what
14 we're going to walk through is that the defendant knew who Jho
15 Low really was. He knew about the lavish spending, he knew
16 about the close relationships with government officials, and
17 those are the reasons that the defendant wanted to get close
18 to Jho Low and wanted to tap into the money and the
19 connections bringing in business for Goldman.

20 As we'll talk about a lot, the money from the bribes
21 and the kickbacks was laundered to and through the United
22 States. Both correspondent bank accounts were used that were
23 processed through the United States and in many cases, through
24 the Eastern District of New York, and in addition, there were
25 payments that went from outside the United States into the

Summation - Smith

5211

1 United States. For example, "The Wolf of Wall Street" movie,
2 that bank account was located in the United States as were a
3 number of other bank accounts and a number of the payments for
4 purchases were made from outside the United States into the
5 United States.

6 Same thing. We're going to see this chart a lot.
7 Just as a reminder, this is a kind of habit on the screen
8 here, it is a six page chart, and all of the wires on the
9 chart went through the United States. The ones in green both
10 went through the United States and went through the Eastern
11 District of New York. And as Eric Van Dorn testified, the
12 wires on the chart are just examples of wires that went
13 through the United States. There are actually many more wires
14 in the scheme that went through the U.S. but we put some
15 number of them on the chart for you.

16 So that's sort of the bribery and the money
17 laundering. The last thing I want to give you is an overview
18 about was the circumvention conspiracy, so the conspiracy at
19 Goldman to get Goldman's committees to authorize the bond
20 deals even though the bribes were being paid and if the
21 committees had known that, they wouldn't have signed off.

22 There were actually sort of four categories of
23 information that the defendant, Leissner and a few other
24 people, we'll talk about who those are, lied to the committees
25 or withheld from the committees about: First, that 1MDB was

Summation - Smith

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1 going to be making these huge payments to the fake Aabar
2 account in addition to the warrants that IPIC was receiving;
3 second, that the bond deals themselves, the Leissner bond
4 deals, would be used to pay bribes and kickbacks; third, that
5 Jho Low is the key decisionmaker for the deal and we're going
6 to see that that was something that was of great concern to
7 Goldman; and, fourth, that both Roger Ng and Tim Leissner had
8 a personal stake in the financial outcome of the transactions
9 because if the transactions went through, they were going to
10 get paid those kickbacks. So all of that information, there's
11 no dispute that that information did not get shared with the
12 Goldman committees.

13 Then I think there are a number of facts about the
14 defendant himself that are not sort of in dispute and the
15 evidence will show this clearly.

16 He had a long-standing relationship with Jho Low
17 which we're going to walk through. He had personal
18 relationships with many of the co-conspirators including
19 Leissner, Loo, Terence Geh and Jerome Lee. There's no dispute
20 that he worked on the bond deals at Goldman. There's no
21 dispute that he communicated with and met with Jho Low in
22 furtherance of the 1MDB bond deals and you are going to see
23 those meetings and e-mails. There is no dispute that he did
24 not disclose Low's involvement in the bond deals to Goldman
25 Sachs. There's no dispute that criminal proceeds from the

Summation - Smith

5213

1 bond deals were received by Silken Waters/Victoria Square and
2 that account was in the name of his mother-in-law. And
3 there's no dispute that those criminal proceeds were
4 transferred to other accounts in the name of Ng's relatives.

5 So what is in dispute, as I said, is the defendant's
6 knowledge and his intent and his guilt and that is what we're
7 going to spend the rest of this morning talking about. As I
8 said, we're going to start from the beginning and we're going
9 to show you the development of the relationship with Jho Low
10 and we're going to take it all through the crimes themselves.

11 So if we can go to 2008. This is testimony from Tim
12 Leissner about the reasons why the defendant and Leissner
13 wanted to develop a relationship with Jho Low. He said:
14 Roger agreed to try and establish a relationship with this
15 young gentleman, Jho Low, who had just appeared on our radar
16 screen. Roger went to establish a relationship and he was
17 successful in doing so and then he introduced me to Jho in
18 January of 2009.

19 The relationship was valuable because of Jho Low's
20 government connections. They wanted to use those connections
21 to bring in business from sovereign wealth funds and other
22 places in Malaysia to Goldman and you'll see as we walk
23 through this section on the development of the relationship
24 that the seeds of what would become the criminal agreement are
25 set early. So the defendant knows about Jho Low's wealth, he

Summation - Smith

5214

1 knows about his political connections, they are using personal
2 e-mails, Jho Low is asking him even in this early time period
3 to please don't talk about my connections with government
4 officials, don't publicize them, and sort of that is all
5 happening as the relationship is being developed.

6 So this is from January of 2009, specifically
7 January 4th, and it's sort of right after that initial meeting
8 where Roger Ng introduces Jho Low to Tim Leissner. Tim
9 Leissner says, I like this guy very much. And at the end,
10 they sort of discuss him and then Roger Ng says Jho Low will
11 play ball with us, he seems to want to be associated with us,
12 he is comfortable. And this is at the beginning of them
13 trying to develop that relationship with Jho Low and to get
14 business into Goldman from him. And if you remember, Roger Ng
15 was the coverage banker for Malaysia so part of his job was to
16 develop these relationships and Jho Low was someone both he
17 and Leissner saw as someone who could bring business to
18 Goldman and to make profits for Goldman and, by extension,
19 themselves.

20 So, again, we kind of see in the early part of 2009
21 the defendant communicating with Jho Low, having meetings with
22 Jho Low, using his personal e-mail accounts. Here it's the
23 rogerch_ng@gmail and Jho Low is using his jholow@gmail
24 address. We have views, in part, because they were forwarded
25 at one point or another to his Goldman address. We'll see

Summation - Smith

5215

1 later on, that that happened in a different way and stopped
2 happening regularly because, of course, the rogerch_ng@gmail
3 account was deleted as was the jholow@gmail account, but these
4 were some early communications about meetings in February and
5 March of 2009.

6 In April and May of 2009, we see some additional
7 communications between Jho Low and Roger Ng discussing
8 potential business and also discussing a trip that Roger Ng is
9 coordinating with Jho Low to Beijing where the Prime Minister
10 of Malaysia will be there as well. That's Government
11 Exhibit 1546 which is on the right-hand side there.

12 You can see on the bottom e-mail, Roger Ng says, I
13 am making reservations for Jho and others for Tuesday and
14 Wednesday, and he's coordinating all the travel details for
15 Jho Low. So early on in this sort of May 2009 time period, he
16 is not only communicating with Jho Low and meeting with him,
17 but he's actually traveling with him and traveling with him in
18 connection with business related to government officials in
19 Malaysia.

20 This is from July of 2009 and we can see, again, if
21 it wasn't already obvious from the e-mails, this is a news
22 article that Roger Ng forwards to himself about the inner
23 circle of Najib Razak, the Prime Minister, and there's a
24 section on Jho Low.

25 It says there: Little is known of Penang born Low

Summation - Smith

5216

1 who is a TIA official -- if you remember, TIA was the entity,
2 the government entity before 1MDB so sort of the precursor to
3 1MDB -- and is said to be an advisor to Malaysia's king
4 Sultan Mizan, and has close ties to several Middle Eastern
5 investment fund. So it was clear early on that Roger Ng knows
6 exactly who Jho Low is and perhaps more than that, who he is
7 and what his connections are.

8 And then these two e-mails from 2009, one from
9 August and one from October, are both instances where we see
10 Jho Low from the very outset trying to distance himself a
11 little bit from the 1MDB officials and the government
12 officials that he's working with. So he wants to exploit
13 those connections but he doesn't want to advertise them.

14 So on the left, you have Jho Low telling a number of
15 people: Please remove any reference to me being close to the
16 PM, the prime minister, or an adviser to the King, just Jho
17 Low. And the defendant responds, Oops, sorry, sorry, bro,
18 slipped this one.

19 On the right you have him saying, When you
20 communicate with the 1MDB guys, please BCC me, I want to be in
21 the background, I am the kingmaker but I don't want to be
22 associated with the King. And that's something Jho Low says
23 from a very early time period and it's something that the
24 defendant knows from a very early time period.

25 And then just the last e-mail I want to show you

Summation - Smith

5217

1 from this time period is from November 2009. It's an e-mail
2 between Leissner and Roger Ng where Roger Ng is saying that he
3 just met the Prime Minister's three children with Jho at Jho's
4 apartment and he's going to work on getting them to join
5 Goldman Sachs and he's trying to talk business and he's going
6 to meet Jho again tomorrow. And the subject line refers to
7 1MDB.

8 So this is, again, the early period, Roger Ng
9 talking to Tim Leissner about his efforts to get Jho Low to
10 bring government business to Goldman Sachs, and his meeting
11 with him at Jho's apartment in New York City. And you saw
12 from the other evidence in the case that, you know, that this
13 meeting took place in New York from the defendant's TEEMS
14 records.

15 Then in Government's Exhibits 3004 and 3005 were the
16 rental agreement for the apartment for Jho Low in New York
17 City during this time period in late 2009. That's where we
18 saw Catherine Tan, his assistant, setting up the rental
19 agreement and we saw it was a monthly rental of \$110,000 a
20 month for this apartment.

21 So you can imagine when Roger Ng goes to an
22 apartment that costs \$110,000 a month, he is well aware of Jho
23 Low's wealth and his connections and his meeting the Prime
24 Minister's children there and this, again, sort of sets the
25 stage for everything that would come afterwards.

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Summation - Smith

5218

1 The next case of this we're going to talk about is
2 sort of the Private Wealth Management client case, but I want
3 you to just keep in mind that the e-mails I showed you about
4 this 2009 period are just some examples of the meetings and
5 the travel and the discussions about business with Jho Low and
6 in this time period, the defendant is successful in getting
7 some business from TIA to Goldman. So there is some business
8 that Jho Low brings in to Goldman in this time period and that
9 sort of incentivizes him to continue to work with Jho Low and
10 see what other kind of business he can bring in.

11 So as part of that effort to continue to develop the
12 relationship with Jho Low, and to sort of build on that and
13 increase the connections between Jho Low and Goldman, Roger Ng
14 is trying to bring, in the same time period, Jho Low on as a
15 Private Wealth Management client. That just means that
16 Goldman would help manage Jho Low's money which obviously
17 brings money into Goldman because they charge fees for doing
18 that and sort of increases the relationship between the bank
19 and Jho Low. So this is what the defendant is trying to do
20 and it's in the same time period of all these e-mails that I
21 just showed you. He puts Jho Low up for Private Wealth
22 Management client in October of 2009 which is before that
23 meeting at Jho Low's apartment in New York with the Prime
24 Minister's children.

25 We can see from the e-mail which is Government

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Summation - Smith

5219

1 Exhibit 1564 that Roger Ng is the one that is proposing Jho
2 Low as a Private Wealth Management client. He said, I would
3 like to refer a client of ours, he copies Tim Leissner, for
4 Private Wealth Management account out of Zurich. And he says,
5 Do not hesitate to contact me or Tim for endorsing reference.
6 So he's putting him up as a client and saying if you want a
7 reference, come to me, I'm supporting him to be a Private
8 Wealth Management client.

9 And, again, this is October of 2009. There's
10 another e-mail as a follow-up where he's asked to give a
11 little more information on Jho Low and he does. And he says
12 Jho Low's, you know, a very wealthy individual and he has all
13 these connections and close relationships including with the
14 Abu Dhabi Royal family. So, again, it's very clear in this
15 time period that the defendant knows exactly who Jho Low is.

16 And you heard from two Goldman witnesses that the
17 referral of Low was an endorsement. So not only did the
18 e-mail, his own e-mail said come to me for endorsing reference
19 but, in general, if a banker is going to refer a client for a
20 Private Wealth Management account, he's saying this is someone
21 you should give an account to. We heard that both from
22 Patrick Kidney who is a anti-money laundering officer in the
23 compliance division who is responsible for vetting Private
24 Wealth Management clients and Chris French who was the head of
25 Goldman's Private Wealth Management client business in Europe.

Summation - Smith

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1 They both basically said if you refer someone, that's a
2 reference and we take that reference seriously.

3 You also heard that the referral was made in October
4 of 2009 and it does not go smoothly. Basically once Roger Ng
5 refers Jho Low, compliance started looking at him and they
6 immediately see a bunch of red flags or concerns and reasons
7 why it would be risky for the bank to take him on as a client.
8 So, first, they couldn't validate the source of wealth. He
9 obviously had a lot of money but they couldn't figure out
10 where the money was coming from. And, second, it was clear
11 that he was doing a lot of deals with government officials.
12 So you heard Patrick Kidney talk about those concerns and then
13 he said, I can't think of very many that have ever come up
14 with this amount of red flags.

15 So Jho Low is just -- there's so many issues with
16 him once they start digging into his background and that is
17 very clear to the compliance division. And ultimately, in
18 March of 2010, so five months later, the compliance department
19 compiles a summary of all of their concerns into what they
20 call a red flag summary. And you know that this, from Patrick
21 Kidney, this was a really long ongoing process and clients
22 don't usually take this much time to come on board.

23 I think there are a couple of things that are really
24 significant about this document which you've seen a bunch of
25 times before. It's Government Exhibit 1601.

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1 You know from this document that the defendant was
2 aware of the issues because it says, in paragraph 7: When
3 briefed on the details of the client's claims, Roger Ng
4 advised caution in accepting the claims at face value.

5 So that tells you that Roger Ng was told that the
6 compliance division was having concerns and that he was
7 briefed on what the claims were and what the concerns were and
8 at that point, he told the compliance division, You guys
9 should do your job, make sure, you know, you check out all of
10 those claims, because he knew that five months into this
11 process, if he sort of sounded like he was, a full-throated
12 approval of Jho Low to compliance with all of these red flags,
13 he was going to look a little odd by pushing him too hard.

14 What he did is he not only sort of equivocated and
15 said, Yes, you guys should go do your job and check out those
16 red flags, he flat out lied to compliance in an attempt to
17 distance himself from Jho Low because of all these red flags,
18 and you can see that in two places.

19 In the first paragraph, it says: Goldman Sachs has
20 not been involved in any transaction with the individual in
21 the past. You know that's false because there was the TIA
22 business that Jho Low brought to Goldman Sachs. And it also
23 says: Individual is not well known to Roger Ng. And we know
24 that is false because he has traveled to China with him, he's
25 met him in New York, he's had multiple meetings with him and

Summation - Smith

5222

1 so the idea that he's not well known to Roger Ng is not true.
2 And then most significantly, it says: Roger had not heard of
3 the individual apart from meeting him on a single occasion
4 when he was present at a meeting with the King of Malaysia.

5 And so I think it's really important to sort of
6 understand that this was an attempt to distance himself with
7 the compliance department from Jho Low and as a result, he
8 lied about his relationship with Jho Low until that point.

9 And, again, we looked at this during the trial,
10 Government Exhibit 77. These were all of the times that Jho
11 Low appeared at meals that were reimbursed or sought for
12 reimbursement by Roger Ng before this presentation is made
13 and so all of the times that you know that they were together
14 before this, in addition to all of the e-mails that we have
15 seen about the various meetings that took place. So all of
16 that happened before he tells compliance, I don't really know
17 the guys and I only met him once. And he's lying because,
18 again, he's trying to distance himself from Jho Low to the
19 compliance people who have concerns.

20 And, again, just to recap, in addition to those
21 TEEMS reimbursement forms, here are two e-mails prior to
22 March 2010 that show other meetings.

23 And what's significant is while he is lying to
24 compliance and trying to distance himself, he doesn't actually
25 say, Don't take Jho Low on as a client, because, ultimately,

Summation - Smith

5223

1 he would like for Goldman to do that because that would be
2 good for him and his relationship with Jho Low and for
3 bringing additional business to Goldman. So after the
4 testimony of Patrick Kidney and Chris French, and the
5 statements you should take a closer look at Jho Low, he never
6 says, Do not take Jho Low on as a client because if he had,
7 that would have been in the compliance presentation and it
8 wasn't.

9 And in fact, there is a May 2010 call with Chris
10 French. Remember, Chris French is sort of on the business
11 side, not on the compliance side. So when he's talking with
12 the business side, the head of Private Wealth Management, he
13 continues to be supportive of Jho Low. He continues to say,
14 You guys can make this work, we want to take him on as a
15 client.

16 And then most significantly, we know that the
17 defendant knew why Jho Low was ultimately rejected as a
18 Private Wealth Management client by Goldman and that is
19 because Morton Meland who is, again, one of the people trying
20 to get Jho Low on board, e-mails Roger Ng and Tim Leissner in
21 May of 2010, so months after the presentation, and says, This
22 is what Patrick has come back with for AML's fifth meeting
23 with Jho Low, JL, not looking good.

24 This e-mail below is from Patrick Kidney
25 reemphasizing all of those red flags: Can't figure out where

Summation - Smith

5224

1 this money is coming from, does all these deals with
2 government officials, all over the press as somebody who is a
3 playboy and we have major, major concerns about him.

4 And this is Morton Meland telling the defendant and
5 Tim Leissner, I don't think this is going to work out because
6 of all of these concerns that Patrick has. And you know from
7 Tim Leissner's testimony that it was actually Roger Ng who
8 called Tim Leissner and said, This is ultimately a no-fly, he
9 is not going to be brought on as a client.

10 So what I think is significant is, you know, he's
11 aware of all these red flags, he's aware that Goldman doesn't
12 want to take him on as a Private Wealth Management client, and
13 he continues anyway to try and develop a relationship and
14 bring additional business to Goldman.

15 And we're going to walk through the 2010-2011 time
16 period in a minute, but one deal that I want to talk about in
17 particular is a deal called Kazakh Gold because it speaks to
18 the defendant's further knowledge of the issues with Jho Low.

19 The details of this deal are not important. All
20 that is important is that you can see on the bottom e-mail,
21 Jho Low is e-mailing the defendant at the end of 2010 and
22 saying: There's this deal related Kazakh Goldmine. Do you
23 want to do it? And Tim Leissner explained that the Jho Low is
24 going to be the buyer for this deal and Roger Ng asked Tim
25 Leissner should we go ahead and do this. Tim Leissner said

Summation - Smith

5225

1 sure, we might want to go show BIG first. You might remember
2 BIG is the Business Intelligence Group and is part of
3 compliance and they do compliance checks on deals.

4 So Tim Leissner says this. They bring the deal to
5 compliance. And, again, this is early 2011 so it's after Jho
6 Low is rejected as a Private Wealth Management client and
7 before sort of the next attempt which we're going to get to in
8 a minute. And what happens is that the Business Intelligence
9 Group rejects the deal for the same reasons that Low was
10 rejected as a Private Wealth Management client, because they
11 can't just figure out where his money is coming from. You can
12 see that, the concerns on the source of wealth, and then they
13 also note his government connections.

14 There are calls from Malaysian MPs to inquire into
15 him, so, basically, they're calls from Malaysian government
16 officials to investigate Jho Low, and his claimed PEP
17 connections. We've heard that term a number of times. It
18 means "politically exposed persons." So, again, BIG is
19 concerned about his source of wealth and connection to
20 government officials.

21 And then you can see in the e-mail on the right,
22 that's Government Exhibit 1665 which Roger Ng and Tim Leissner
23 received, and I should say they also received the e-mail where
24 BIG had explained their concerns on the left, and it says:
25 Bias is not to move ahead. And you can see Steven O'Flaherty

Summation - Smith

5226

1 talking about this as well and he says, and he is informed
2 that Asia has dropped the idea since they could not clear the
3 buyer.

4 So, basically, this is a deal that gets scuttled by
5 Goldman's compliance department because they're concerned
6 about Jho Low's source of wealth and they're concerned about
7 his government connections and they don't want to move
8 forward. So at this point in time, in early 2011, the
9 defendant knows that Jho Low hasn't been made a Private Wealth
10 Management client because of these concerns and that this deal
11 isn't going to go forward because of these concerns.

12 And what happens next? What happens next is that
13 Roger Ng nevertheless supports another attempt to make Jho Low
14 a Private Wealth Management client. And this time, instead of
15 trying Europe where they got rejected, they're going to try in
16 Singapore.

17 And you can see this. This is Government
18 Exhibit 1679. He re-raises the idea of Jho Low as a Private
19 Wealth Management client. The official name on the referral
20 is Tim Leissner but you can see from the e-mail that Roger Ng
21 is driving this process. He e-mails someone involved in the
22 Private Wealth Management client group and says that Jho can
23 meet for lunch and he says that the purpose of the lunch, and
24 that's the e-mail 3 in the middle, trying to make this a
25 little clearer to read, is: I am available. He wants to get

Summation - Smith

5227

1 open a PWM client here in Singapore. So Jho Low wants a
2 Private Wealth Management account and he wants it in
3 Singapore.

4 And the response from the person in the Private
5 Wealth Management group is: I'm not sure why the Swiss team
6 decided not to go ahead with the account with him but I can
7 check with the Asian team. So she's basically saying I know
8 it didn't go forward in Switzerland but I don't really know
9 why so let me find out. And Roger Ng writes back: Thanks.
10 He doesn't say, Oh, I know why it didn't happen in
11 Switzerland, because they couldn't figure out where his money
12 was coming from and he has connections to all these government
13 officials. He just says, Thanks, because he's trying to push
14 this process forward as well.

15 And we can see that when this information reached
16 the team in Switzerland, Patrick Kidney says: As far as I was
17 concerned, this had already been determined. It was an open
18 and shut case. We were not bringing him on.

19 So the fact that he was put forth again by Roger Ng
20 was surprising and we know that Roger Ng is the one pushing it
21 because he actually meets with Jho Low to try to get this
22 Private Wealth Management account set up in Singapore.

23 Then after that meeting, he gets more information:
24 I'm not going to chase since I'm not sure we can clear because
25 there's still concern that they bring him on board. And,

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Summation - Smith

5228

1 again, instead of saying he understands what the concerns is,
2 he says that Jho Low reminded me he was busy but that he would
3 work on the docs.

4 So it's really, really significant to the
5 defendant's knowledge and his intent of who Jho Low was and
6 why it was important to hide it from Goldman. This whole sort
7 of series of events related to the Private Wealth Management
8 client puts him on notice of all of these red flags which he
9 already knew about, but it puts -- it really crystallizes the
10 issues for him. And there are two separate issues -- two
11 separate times where he was rejected as a Private Wealth
12 Management client, both in Switzerland, it doesn't happen in
13 Singapore. Then we have the Kazakh Gold deal where Goldman
14 Sachs says we're not going to go forward with this because
15 we're concerned about Jho Low.

16 So that's sort of where we are in the 2011 time
17 frame and I just want to talk a little bit more about the
18 relationship in that time frame, 2010-2011, and a couple of
19 other things that were going on.

20 During this time period, sort of while all this
21 Private Wealth Management stuff and Kazakh Gold is going on,
22 Roger Ng remains the main point of contact for Jho Low. So
23 you can see this is from April of 2011. Roger Ng is saying I
24 will get this material to Jho Low, we're continuing to try to
25 do deals and have him speak to the private minister as well.

CMH

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Summation - Smith

5229

1 So he is the one that is contacting Jho Low.

2 That same pattern continues throughout 2011, Roger
3 Ng sending from his, again, personal e-mail account, the
4 RogerNg1@gmail account which gets deleted. He is saying to
5 Tim and Loong Kim Tan on their personal accounts, FYI from
6 Jho, so he's communicating with Jho about deals. The e-mail
7 on the right which is Government Exhibit 2216 is from Tim
8 Leissner to Roger Ng's personal account and he's saying,
9 "Roger, can you please forward to Jho."

10 So Roger in this time period, that is the main point
11 of contact with Jho Low and is continuing to be sort of the
12 one that connects with him.

13 Now we also see in this time period that he
14 continues to use those two e-mail accounts that get deleted
15 but he also starts using a Queensgate Capital account.

16 This is an e-mail, Government Exhibit 2207, from
17 April 30, 2011, and if you remember from Special Agent
18 Collins' testimony, it's actually the date that the Queensgate
19 Capital e-mail account gets opened.

20 So the very date that the defendant opens this
21 e-mail account, the first person he gives that e-mail account
22 to is Jho Low and that's the deal where he had one gmail
23 account and you know that because it's DealRainman e-mailing
24 Queensgate first. And only after Roger gets the e-mail at
25 that account does he forward it to Tim Leissner and say,

Summation - Smith

5230

1 Leissner, FY, this is me, it's Roger. Jho Low already knows
2 that because Jho Low is the one that gets this e-mail account
3 first and the reason that the defendant is creating an e-mail
4 account that doesn't have his name is to deal with Jho Low and
5 to conduct business with Jho Low offline.

6 So he's moved from the e-mail accounts in his own
7 name to a Queensgate account and that happens in April of
8 2011, April of 2011, almost a full year before the bribery
9 scheme kicks off. So this is all sort of in process and in
10 place before any of that happens.

11 The other thing we saw about sort of this time
12 period is that Roger Ng maintained a personal relationship
13 with Jho Low. He traveled to Vegas to gamble with him and you
14 know from the Venetian records that he was gambling at the
15 same table with Jho Low and Jho Low's brother and Eric Tan Kim
16 Loong who is involved in all of the bank accounts.

17 One thing that Special Agent Sullivan testified
18 about was that the defendant flew from Singapore to Vegas for
19 this trip on Jho Low's private jet. If you look at the tail
20 number of the jet on the bottom left which is Government
21 Exhibit 2855, that's the currency transaction report where
22 Roger Ng was flying into Vegas and reported that he had
23 \$14,000 in cash on him, you can see that the tail number there
24 is N689WM.

25 Then if we move forward to May of 2011, and you look

Summation - Smith

5231

1 at the top left, that's the same tail number for Jho Low's
2 private jet. This is an instance where the defendant and Jho
3 Low took that private jet to Nice, France, and were aboard the
4 ALFA NERO. We saw that that was a yacht that had been rented
5 for I believe more than a million euro. And you can also see
6 from this trip that when the defendant traveled back to
7 London, he listed Low's apartment on Stratton Street as his
8 home base for the trip. And then he even filed the TEEMS
9 receipt later using stationery from the yacht.

10 So you have in this time period the defendant not
11 only did develop a business relationship with Jho Low, but
12 also a personal relationship, the gambling, the yacht, and it
13 shows you that, you know, in the time period where he is being
14 told that there's unexplained sources of wealth for Jho Low,
15 he is experiencing those firsthand. He's going to Vegas and
16 seeing him drop an ungodly amount of money, hundreds of
17 thousands of dollars gambling, and he's going to a yacht in
18 Nice that was rented for more than a million euros and flying
19 on a private jet. He's fully aware of exactly who Jho Low is
20 and the fact that he has all of this money.

21 The last thing I want to talk about from this time
22 period are side deals. You heard a lot about various other
23 deals that were going on, particularly during the testimony of
24 Tim Leissner, but I think what's important about the side
25 deals is that they established the defendant's greed.

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Summation - Smith

5232

1 You heard Tim Leissner say that the defendant wasn't
2 always happy with the salary at Goldman Sachs, always thought
3 he should be making more money, was always looking to sort of
4 make more money, and these side deals, the deals that were
5 sort of being done offline, not for Goldman but for themselves
6 in this time period, and they were sort of always wheeling and
7 dealing and trying to figure out how they can make money for
8 themselves, really do establish the record.

9 So this Government Exhibit 2202 is a side deal that
10 didn't directly involve Jho Low, but did involve Michael Beck
11 which is someone else you heard about and you can just see
12 that they're e-mailing on their personal account about these
13 deals. The most important thing about this is Roger Ng says,
14 you know, sort of figuring out how the deal is going to work
15 and what the various rates are and how it's structured. Tim
16 Leissner says that his calculations are right. And Roger Ng
17 basically says they are right and if this works out, it will
18 more than my bonus.

19 So they're really -- they're always looking for
20 wheeling and dealing, what else can we do to bring money in,
21 and you'll see that it's always the defendant and Tim Leissner
22 together. And in many occasions, they're also trying to bring
23 Jho Low in because they know Jho Low has a lot of money and
24 Jho Low is up for doing a lot of deals.

25 This is another example of a deal that they're

Summation - Smith

5233

1 discussing with Michael Beck and Stephen Dattels in October of
2 2010 and they're talking about, What do you think for JL, what
3 do you think for Jho Low, should we bring Jho Low in on this.

4 And then the last side deal that I want to look at
5 but I think it's sort of the most important one is this e-mail
6 from May of 2011. You can see that it's Roger Ng who's using
7 his gmail account, and he's also using the Queensgate account,
8 and he is e-mailing Tim Leissner and he's updating Tim
9 Leissner on the discussion that he had with Jho Low. He's
10 talking about a side deal that they want to work on with a
11 company called Petronas which is a Malaysian company and Tim
12 Leissner testified that they tried to do deals with Petronas
13 before and with Goldman and it never worked out.

14 So Roger discussed this with Jho Low and he reports
15 back to Tim Leissner. The most significant part of the e-mail
16 is that he says: We need to pay Omar so that he plays ball.
17 And so, basically, in words to sort of get this deal through,
18 they're going to propose to pay Omar, and that's Omar Mustafa
19 who is on the board of the company, in order to, to sort of
20 make this deal happen.

21 Mr. Leissner explained in his testimony you don't
22 pay a sitting board member to get a deal done, that that is a
23 bribe. So they are discussing here in May of 2011 over
24 personal e-mail accounts a side deal in which a bribe was
25 contemplated being paid. So I think what it shows you is that

1 these were two people who were willing to engage in corruption
2 to get their job done, they are comfortable of talking on
3 personal e-mail accounts about plans to bribe someone for a
4 deal, and a year out, almost a year out from Project Magnolia,
5 Jho Low is important.

6 So I think everything that we have seen in this
7 development of this relationship and the knowledge of the red
8 flags and the personal relationship that the defendant had
9 with Jho Low and these attempts at side deals, all of this
10 lays the foundation for what happens in 2012. And what
11 happens in 2012 with the bribery scheme does not come out of
12 nowhere. All of these pieces that we've been talking about,
13 the connections to government officials, the communications on
14 personal e-mail accounts, the discussion of potentially paying
15 bribes, trying to do side deals away from Goldman, violating
16 Goldman's policies which we'll talk about, all of this sets
17 the stage for what happens next. And what happens next, what
18 we're going to focus on now is the bribery scheme itself.

19 This is Government Exhibit 2226 and you can see in
20 this e-mail and the next evident mail, Jho Low finally comes
21 through and is going to bring the defendant and Roger Ng
22 really big deals that they can do for Goldman. And this is an
23 e-mail, again, all on personal e-mails between Tim Leissner's
24 Yahoo, the DealRainman account which is Jho Low's account, and
25 Roger Ng at his Queensgate account and they're discussing very

Summation - Smith

5235

1 early on in January 2012 the assets in Tanjong Energy which is
2 the deal that eventually becomes Project Magnolia.

3 You can see here that they're discussing it over
4 their personal e-mail accounts. This is a continuation of the
5 e-mail exchange. And the defendant says to Tim Leissner:
6 This makes the deal more real. How do you like the name
7 Queensgate?

8 So, again, they're discussing it on personal e-mail
9 accounts, they're setting the seed for what's going to become
10 the deal and they're discussing it with Jho Low.

11 And then the next e-mail I want to show you is
12 Government Exhibit 228 which is from January of 2012. And if
13 you look at the bottom e-mail which is the first e-mail in the
14 chain, it's Jho Low at that Jho Low gmail which, again, gets
15 deleted, and it says to Shahrol Halimi who works at 1MDB:
16 Making an introduction to Tim and Roger's private e-mail
17 accounts as discussed.

18 So they've been talking about the deal and they're
19 getting ready to get the deal off the ground. Jho Low is
20 going to introduce the defendant and Tim Leissner to the
21 person at 1MDB that they need to talk to, so, again, making an
22 introduction on their private e-mail account so we can do this
23 off of Goldman's systems. Then he says, Please exclude me
24 from the e-mail going forward, because he wants to be separate
25 from 1MDB and he's pulling the strings behind the scenes but

CMH

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RDR

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1 he doesn't actually want to be involved even on these private
2 e-mail accounts. You can see the defendant writes back, Works
3 for me and we'll get a meeting set up, and that's in January
4 of 2012.

5 So what we're going to do next is sort of walk
6 through the four critical meetings that we talked about a
7 number of times during the trial related to the bribery scheme
8 starting with the London meeting in February 26 of 2012 and
9 before we do that, I just want to take a moment here to talk
10 about Tim Leissner because we're going to start with Tim
11 Leissner's testimony about what happened at the London scheme.

12 So as you know, Tim Leissner has pled guilty to
13 violating the FPCA and money laundering and he testified here
14 under a cooperation agreement. As my colleague Mr. Wible told
15 you at the outset and I'm going to tell you now, you should
16 scrutinize this testimony closely. I submit that when you do,
17 you'll find that what he told you about the crimes that he
18 committed with the defendant and others is backed up by and
19 consistent with the other evidence in the case. That is,
20 Leissner didn't tell you anything you don't already know from
21 e-mails and the phone logs and the bank records and the travel
22 documents for the defendant and their co-conspirators. It is
23 all right there in black and white in the documents.

24 Leissner's testimony is helpful because it gives you
25 color and context for the events surrounding the crimes and it

Summation - Smith

5237

1 gives you an inside look into the conspiracies, but I submit
2 that you already know that the defendant is guilty from the
3 other evidence in the case. That's been true of everything
4 that I walked you through so far and that's going be true of
5 everything that we walk through from this moment forward.

6 So keeping that in mind, we're going to start with
7 Leissner's testimony about the London meeting. He explained
8 to you that they traveled to London to sort of discuss the
9 Goldman Sachs side of the deal. So they knew this deal was in
10 the works, we saw the e-mails where they were sort of setting
11 things up, but now they have to do the structure because it's
12 a \$1.5 billion fundraising and that doesn't just happen. You
13 have to have -- there's a lot of paperwork, there are -- all
14 the financial structures have to be in place and it is a lot
15 of work to put together.

16 So they went to Jho Low's residence in London to
17 sort of figure out what was happening and how to put this
18 together and how they were going to make this deal come to
19 fruition. And when they were at the meeting, what Jho Low
20 said to them was to get this deal done, we are going to have
21 to pay off a lot of people in Malaysia and Abu Dhabi. And so
22 Jho Low walked them through who is going to have to get paid
23 to get this enormous deal done especially in a time frame that
24 they wanted to get it done which is quickly.

25 So he said -- Leissner testified that the defendant

Summation - Smith

5238

1 was there and on Jho Low's side, he had himself, Jasmine Loo
2 who is the general counsel of 1MDB, and then also Nik Faisal
3 who is the CEO of the subsidiary of 1MDB and also the person
4 who is on that e-mail account that he and Jho Low both used.

5 Then Leissner walked you through who Jho Low said
6 was going to have to be bribed to get this done. It's sort of
7 the same cast of characters that you see up here that you saw
8 in the bank accounts receiving the money from Malaysia and
9 from Abu Dhabi and then obviously Jho himself.

10 So you have Najib Razak, the Prime Minister of
11 Malaysia who winds up getting almost \$700 million. You have
12 Rosmah Mansoor, his wife. 1MDB officials which are going to
13 include Jasmine Loo and Terence Geh. Then on the Abu Dhabi
14 side, you have Sheikh Mansour who we talked about who was the
15 chairman of IPIC. You are going to have Al-Qubaisi and
16 Al-Husseiny who work at IPIC and Aabar, IPIC, in general, and
17 then Yousef Al-Otaiba who is the ambassador who can kind of be
18 there if necessary. And they also discussed at the meeting,
19 well, the money to pay all these people, we're raising
20 \$1.5 billion, we'll take the money for the bribes out of that
21 raise.

22 So that is what's discussed at the London meeting.
23 They go in there to discuss the structure and in order to get
24 it done, we're going to have to pay the bribes.

25 (Continued on next page.)

Summations - Ms. Smith

5239

1 MS. SMITH: We know from the travel records, which
2 you have all seen, that both the defendant, Roger Ng, and Jho
3 Low were all in London at the time of the London meeting on
4 February 26.

5 We also know that Jasmine Loo was at the meeting.
6 As you can see, she sends this e-mail on February 27 where she
7 says the next day: I'm still in London and running meetings.

8 We know that Terence Geh was there too. We saw the
9 chat where he talked being at Jho Low's apartment. We see
10 this e-mail where Jasmine Loo adds Terence Geh to the deal
11 team the day after the London meeting, and Roger Ng says to
12 Terence Geh: Welcome to the deal team. Then he says: You
13 will not regret it. Boy, does Terence Geh not regret it. He
14 ends up getting millions of dollars for his role in this
15 scheme.

16 What else do we know about what happened at the
17 London meeting. We know that the structure of the deal and
18 how it was getting done is what was discussed. The first
19 thing that Jasmine Loo does the same day of meeting, is e-mail
20 Tim Leissner and Roger Ng a chart showing the structure for
21 the deal and everything that needs to get done on the Goldman
22 side in order for the deal to move forward. You can see at
23 this point there is a payment from 1MDB to the Aabar SPV, a
24 subsidiary of Aabar. That's the way the money is ultimately
25 taken out of the 1MDB deal and used to pay the bribes.

Summations - Ms. Smith

5240

1 This, as you know, changes. That payment is no
2 longer -- later it's taken out, and Goldman is told they are
3 not going to get paid they are just going to get the warrants.
4 At this point, this is the structure that they are talking
5 about.

6 What everybody does from the London meeting forward
7 and what you're going to see, is they work on two things.
8 They work on getting the deal done. There is a lot of work to
9 be done to get the deal finalized and the paperwork done, and
10 all the financial analysis and getting approved at Goldman.
11 And then they are going to get on board all the parties that
12 they need to get on board. And everybody needs to agree to
13 get bribed. And this is how they are going to do it from this
14 point forward.

15 One other thing about the chart. What happens with
16 the chart, so Jasmine Loo e-mails it to Roger Ng and Tim
17 Leissner. Two days later, Roger Ng e-mails it from his
18 Goldman account to his personal gmail account, the
19 RogerNg1@gmail account that gets deleted at the end of the
20 conspiracy. This is the beginning of a pattern of e-mails
21 where you can see the defendant e-mailing stuff to his
22 personal e-mail account and communicating to his personal
23 e-mail, taking that information about the deal and filtering
24 it back to Goldman.

25 He and Tim Leissner are talking to Jho Low -- and

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1 we'll later see them talking to Jasmine Loo over the personal
2 e-mail account -- discussing the structure, what they need to
3 do to get things done, various things that need to be
4 delivered. Then they come back to the Goldman accounts and do
5 it officially. This is a pattern that repeats through this
6 whole time period of getting the deals done, you can see the
7 defendant communicating with Jho Low on his personal accounts.

8 We walked through some of these during the testimony
9 of Special Agent Ryan Collins. But just as an example, if you
10 compare Government's Exhibit 1764 to Government's Exhibit
11 1758, these are both from March 1st, 2012, so right after the
12 London meeting. The one on the left is from the
13 RogerNg1@gmail, so the gmail account that gets deleted, to
14 Roger Ng's personal Goldman account. That e-mail says:
15 Please have your team update and resend ASAP word doc for.
16 And it has at the bottom: Other comments coming. Send back
17 ASAP.

18 So it is clear this is an e-mail being forwarded
19 from the gmail account to the Goldman account and it came from
20 somewhere else. Because someone is asking Roger Ng to update
21 the document and someone is saying other docs are coming. I
22 submit to you, this is clear this is Jho Low who he's
23 communicating with or someone working for Jho Low.

24 What is really significant is when this e-mail gets
25 sent to Andy Tai at Goldman. You remember Andy Tai, the first

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1 witness in the case. He came in and testified he was very
2 junior on the deal team at the time, and he did not about Jho
3 Low's involvement. You have Roger Ng taking that e-mail,
4 putting it into a Goldman e-mail, taking out the: Please have
5 your team update and the other comments. So it looks like
6 these comments are coming from him, when in fact, they are
7 coming from Jho Low.

8 He says: Andy, some comments. And he puts the
9 comments in. And he takes out the parts of the email that
10 would show that it came from somebody else.

11 Let's look at another example, because there are a
12 number of these. Government's Exhibit 1767 is on the left,
13 Government's Exhibit 1766 is on the right. And this is one
14 that we actually talked about with Andy Tai. He obviously had
15 never seen the one on the left, but he had seen the one on the
16 right. The left is the RogerNg1@gmail that gets deleted and
17 goes to Roger Ng's Goldman account. And this one can you see
18 is a forward forward, so it is being forwarded from somewhere
19 but it's not clear where.

20 Again, it includes a whole bunch of comments -- this
21 is March 2nd the next day -- a whole bunch of comments about
22 the deal, how to update deal paperwork. In the e-mail it
23 says: As per discussed, you make all these changes.

24 You can see on the bottom, again, it had been
25 forwarded twice, but he's removed where it's coming from. On

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1 the right, he forwards the e-mail to Andy Tai and says:
2 Please find additional comments. Doesn't actually say where
3 they are coming from. Andy Tai testified he couldn't figure
4 out where the forward was coming from. He's passing along the
5 input from Jho Low and others working from Jho Low on the deal
6 as the deal is happening. He's doing this offline with the
7 personal e-mail accounts.

8 Just as a third example, again in the same time
9 period March 2. On the left is Government's Exhibit 1768, on
10 the right is Government's Exhibit 2251. This is Roger Ng.
11 This time the information is going from his Goldman account to
12 the RogerNg1 gmail account that gets deleted. This time he's
13 forwarding a copy of the presentation that Andy Tai put
14 together, and he's forwarding it from his Goldman account to
15 his personal account. There is no reason, as Caroline Fraser,
16 who came and talked to you about all of these at policies at
17 Goldman would say, no reason for him to be forwarding Goldman
18 documents to his personal account; particularly, in a case
19 like this where it's a significant deal. It's private, it's
20 not public. There is no reason for him to be forwarding this
21 Goldman document to himself.

22 But what happens with the document? And keep in
23 mind again the RogerNg1@gmail account gets deleted and the
24 dealrainman1@gmail gets deleted. The only reason we have
25 these emails is because the one on the left got forwarded from

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1 Goldman; and the one on the right, as you saw the stipulation,
2 Hussein's lawyer provided those documents to the Government.
3 We don't have the e-mails in between RogerNg1@gmail and Deal
4 Rainman, because those got deleted. What we can see is that
5 the Roger Ng gmail account gets this presentation, and then
6 four days later the Deal Rainman account forwards this
7 presentation to Hussein with slight changes, but the same set
8 of documents.

9 If we look at the next slide, those are the two
10 attachments for those two emails. The one on the left is the
11 one that Roger Ng forwarded himself; the one on the right is
12 the one that Deal Rainman forwards on to Al-Hussein. They
13 are not exactly the same, but it's the same Goldman document.
14 We see some information has been changed on the second slide
15 when it comes from Deal Rainman, but this is what is
16 happening. Roger Ng is communicating with Jho Low offline on
17 personal accounts. They show back up in the Goldman system
18 with comments that he wants. He gets those comments. Then he
19 forwards the completed Goldman documents back to Jho Low to
20 use as he needs in connection with the deals.

21 And all of this happening in a week or two after the
22 London meeting.

23 The next meeting is the Abu Dhabi meeting, March 3rd
24 and 4th of 2012, only about a week after the London meeting.
25 At this point the plan is in motion. They are working on the

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1 structure at Goldman. They are communicating with Jho Low
2 offline. And now they are going to go to Abu Dhabi and they
3 are going to convince IPIC and Aabar to get on board.

4 We know that Jho Low and Roger Ng and Tim Leissner
5 were all in Abu Dhabi for this meeting. We know they have a
6 meeting at Emirates Palace, where Tim Leissner was staying
7 from the TEAMS records. This is Roger Ng updating another
8 Goldman banker, Toby Watson, who we'll talk about later. And
9 explaining the purpose of the meeting was to get IPIC and
10 Aabar on board. He said to Toby Watson: Did Andrea --
11 talking about Andrea Vella -- post you. Toby Watson said:
12 No, how did it go. He says: CEO IPIC and CEO Aabar have in
13 principle agreed. PM Malaysia will also be speaking with
14 Ruler/Emir of Abu Dhabi.

15 The plan is in motion. They are making sure that
16 IPIC and Aabar will be providing the guarantee. And he knows
17 that this is the Prime Minister of Malaysia and the Ruler of
18 Emirates of Abu Dhabi are getting on the same page as well.

19 I think we'll talk about this a little more later,
20 Toby Watson is one of the inner group of people who knows
21 about Jho Low but doesn't know about the bribes. So Roger is
22 updating him on what is going on with this aspect, but he's
23 not in the actual inner circle, which is just Roger Ng and Tim
24 Leissner who know that bribes are going to get paid.

25 In the same time period, while in Abu Dhabi on

1 March 4, Roger Ng is once again sending Goldman documents he
2 put together for the deal from his Goldman account, sending
3 them to his gmail account. This happens all the way through
4 as the deal is progressing. He's continuing to send stuff to
5 himself.

6 What happens next, and there is a lot of testimony
7 about this, is Leissner delivers the letter for Sheikh Mansour
8 to Al-Husseiny in Abu Dhabi. This is in line with what the
9 defendant just talked about, that they need to get IPIC and
10 Aabar on board and make sure that Abu Dhabi and Malaysia are
11 coordinating.

12 We saw the e-mail from Jho Low, the Deal Rainman
13 account, saying: Please do not respond to this e-mail,
14 sending it to Hussein. Asking for the contact point for the
15 delivery of the letter.

16 We also see Tim Leissner, he was just in Abu Dhabi,
17 he's going back to Abu Dhabi a few days later to make sure
18 this letter gets delivered.

19 That brings us to the Los Angeles and New York
20 meetings in March 25 to 27 of 2012. We see meetings.
21 Obviously they talk about the structure, who needs to be
22 bribed. We saw meetings to get IPIC and Aabar on board. And
23 now we see a series of meetings to talk about the MNA portion
24 of the transaction, the actual assets that will be sold as
25 part of the bond deal, and referred to as one point as Project

1 Turin. This is what the meeting in Los Angeles and New York
2 is about.

3 If we start with Government's Exhibit 805, you can
4 see that the meeting -- this is an e-mail from the defendant,
5 Roger Ng. The meeting was originally scheduled to take place
6 in New York and it was going to be with Ananda Krishnan
7 Christian, who was the owner of the Tanjong Energy Assets for
8 Project Magnolia. And Roger is asking his assistant: Can you
9 book me to get to New York by Sunday evening. He asked to
10 stay at the Sofitel New York, because he's going to stay at
11 the same hotels with Tim Leissner, that way we can be with the
12 client. The purpose of the trip is to meet Ananda Krishnan
13 regarding Project Magnolia with Tim Leissner.

14 This is the original plan for the trip. They are
15 going to meet in New York. They are going to talk about
16 Project Magnolia. They are going to meet with Ananda
17 Krishnan, and it's going to be Tim Leissner and Roger Ng.

18 Then what happens is that March 23 Roger Ng gets a
19 call from Jho Low and the New York meeting is going to be
20 moving to L.A. So instead of meeting in New York they will
21 meet at L.A. at a L'Ermitage. The L'Ermitage was owned by Jho
22 Low. So he asked ask that his travel plans get changed and
23 also to get approval to stay at L'Ermitage, which is owned by
24 a related client on the deal. He doesn't say Jho Low. He's
25 not talking about Jho Low. But he wants to stay the

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1 L'Ermitage for that reason.

2 What happens next is that we know that Jho Low and
3 Tim Leissner and Roger Ng all meet at the L'Ermitage, March 25
4 to 26, and discuss Project Magnolia. Jho Low says to Tim
5 Leissner: See you at 6:00 p.m. at L'Ermitage. Tell Roger.

6 You can see that Tim Leissner is having his
7 documents sent there and Roger Ng stays there. So all three
8 of them were at this meeting.

9 What happens next is that Tim Leissner travels with
10 Jho Low onto New York to meet with Ananda Krishnan as
11 originally planned. So you can see that Tim Leissner takes
12 Jho Low's private jet from L.A. to Teterboro in New Jersey.
13 They go from Teterboro to Manhattan you heard a lot about the
14 waters passing through the Eastern District of New York to get
15 to Manhattan. And he stays at Sofitel where Roger Ng was
16 going to stay. This is the meeting they planned with Ananda
17 Krishnan. You know that Ananda Krishnan doesn't go to L.A.
18 but winds up going to New York as originally planned, and
19 that's where Tim Leissner meets him. That's Defense Exhibit
20 2219.

21 They talk about having dinner Monday night, which is
22 after Roger Ng goes from L.A. back to Asia. And Tim Leissner
23 and Jho Low go to New York. They meet up in New York to
24 discuss Project Magnolia.

25 We also see both from the text records and from Tim

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1 Leissner's own flight records that they have a meeting in New
2 York. They stayed at Sofitel. Then they left from New York
3 from J.F.K. Airport in Queens.

4 Then in the same time period, again this is another
5 example of communications offline, Government's Exhibit 2266
6 and Government's Exhibit 1812, if you compare the two of them,
7 another example of Tim Leissner, Jasmine Loo using the Project
8 Dodobird e-mail address and Roger Ng using RogerNg1@gmail
9 account, which gets deleted, discussing Project Magnolia. And
10 Tim Leissner says to Jasmine Loo: Could I trouble you to
11 forward this to our GS account, then I can handle officially.
12 Sorry for that.

13 This is March 28, 2012; so right in between the L.A.
14 New York meeting and the next meeting we're going to talk
15 about. And what does Jasmine Loo do? She forwards this
16 e-mail that Tim put together as if she came up with it
17 herself. She forwards it officially to the defendant and to
18 Tim Leissner's Goldman Sachs account. And Roger Ng says:
19 Yeah, I'll take care of this. As if this had not been already
20 discussed on the side on their personal e-mail addresses.

21 During this whole time period, this is happening
22 offline on the personal e-mail accounts.

23 Then the final key meeting that I want to talk about
24 is the meeting in Singapore with BSI on April 21, 2012. If
25 you look at the defendants TEEMS records and e-mails, tons of

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1 meeting all over the place during this time period for Project
2 Magnolia. We're highlighting the top four, but throughout
3 he's consistently working on these deals.

4 The Singapore meeting on April 21, 2012. We've got
5 the structure down, they have the deal, they got all the
6 officials on board. Now we need to figure out how we're going
7 to get the money, how 1MDB will be used for bribes.

8 For the Singapore meeting, again, there are records
9 showing everyone who was there. You have Jho Low's landing
10 card for Singapore. Roger Ng says he's there to meet was
11 client for 1MDB and for Project Magnolia. Tim Leissner's
12 hotel records as well. So they are all in Singapore for this
13 April 21 meeting.

14 What do we know about the meeting itself? So
15 Leissner told when you he testified, this is transcript page
16 943 and 945, that Jho Low and Roger organized the lunch and it
17 was to tell BSI about the bond raise, to give them comfort
18 that Goldman Sachs did the work, to give them comfort. And
19 prior to the meeting, the defendant, Tim Leissner and Jho Low
20 met in a separate room, at the same restaurant but a private
21 room, discussed the game plan. And then they went into meet
22 with the BSI bankers, which included Yak Yew Chee, who was Jho
23 Low's private banker.

24 The idea was that BSI bank was going to get money
25 out of the transaction and Jho Low wanted the defendant and

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1 Tim Leissner to go to the BSI bankers and make them
2 comfortable that this was a legitimate transaction. So that
3 was the purpose of the Singapore meeting. That took place in
4 on April 21 with the BSI bankers.

5 THE COURT: Members of the jury, it's 11:30 a.m.
6 We're going to take a short 15-minute break. Remember that
7 you still cannot discuss the case among yourselves.

8 (Jury exits the courtroom.)

9 THE COURT: I'll see the parties in 15 minutes.

10 (Brief recess.)

11 (Jury enters the courtroom.)

12 THE COURT: Please be seated.

13 Please continue, Ms. Smith.

14 MS. SMITH: We left off with the Singapore meeting
15 in April 21, 2012. And when left off, we were talking about
16 Leissner's testimony about the purpose of the meeting and the
17 fact that they went to the restaurant to meet with the BSI
18 bankers. And Tim Leissner and Roger Ng met with Jho Low in a
19 separate room within the restaurant first, and then had the
20 meeting with the bankers.

21 You know that this meeting happened, in part,
22 because we have an e-mail from BSI about the meeting itself
23 where BSI is saying: We understand that we've been invited to
24 a closed-door presentation by Goldman Sachs on the bonds to be
25 issued by 1MDB tomorrow afternoon. The e-mail is dated

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1 April 20. It says: The presentation is conducted by Goldman
2 Sachs. And then it also says that: I understand another
3 client, Low, will be present at the meeting.

4 So this is an e-mail from within BSI talking about
5 the meeting that is going to happen the next day. That's
6 Government's Exhibit 2269.

7 Then you heard from Kevin Swampilai, the BSI banker
8 who came from Singapore to testify during the trial. And he
9 corroborated Tim Leissner.

10 He said -- it's not on the screen, but it's
11 transcript page 3237 -- that his understanding from Yak Yew
12 Chee was that Jho Low was there and in a different room. And
13 that at the meeting itself he was expecting sort of a
14 presentation from Goldman explaining the deals and the due
15 diligence they had done; but in fact what Tim Leissner did,
16 was said, we're doing these deals. He didn't give a
17 presentation. He blew off any discussion of due diligence.

18 The reason you know that this happened, is because
19 Tim Leissner and Roger Ng thought that this was sort of just a
20 meet-and-greet, that BSI with Yak Yew Chee was Low's personal
21 banker, BSI was on board. They were there was to provide
22 legitimacy that the deals were happening. They didn't intend
23 to get into any of the details of the deals themselves.

24 The meeting happens. Tim Leissner, Roger Ng talk to
25 Jho Low about the need for this account at BSI and its getting

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1 set up. We know that's where the money from 1MDB actually
2 winds up.

3 They when they meet with the bankers themselves,
4 they assure BSI that the transactions are happening but they
5 don't talk about anything related to due diligence. Because
6 it's a meeting for show. It's a meeting so BSI knows the bond
7 deals are actually happening. No one is going to be able to
8 give assurances about the legitimacy of what money is coming
9 into the BSI bank, because it's going to wind up being
10 criminal proceeds. And you know that Tim Leissner had to
11 leave the meeting early because he had to be somewhere else,
12 and that Roger Ng stayed behind.

13 And Kevin Swampilai testified that he left the
14 meeting relatively early. And that Yak Yew Chee and the
15 defendant Roger Ng were still in the meeting when he left.

16 So that's the April 21, 2012 meeting in Singapore.
17 And again, if you think back to what we discussed at the
18 beginning of my presentation, that's exactly one month before
19 Roger Ng and Hwee Bin Lim tell their bank that they are
20 getting money from BSI.

21 So ultimately the Project Magnolia closes and we're
22 going to talk at a later point about what the defendant and
23 Tim Leissner were doing at Goldman Sachs to ensure that would
24 happen.

25 This is a copy of the SWIFT payment. We heard about

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1 SWIFT payments, it's a message indicating that a wire transfer
2 has gone through. It's the transfer of funds after the close
3 of the Project Magnolia, and that happens on May 21, 2012.

4 Then you heard testimony from Tim Leissner, pages
5 981 and 995, about the payment of the bribes and kickbacks
6 after Project Magnolia closes.

7 Earlier this morning I talked about how Tim Leissner
8 volunteered to use Capital Place because the payments out of
9 Project Magnolia for the bribes and the kickbacks were
10 delayed. The defendant and Tim Leissner expected the money
11 much sooner than they got it; so they had a discussion when
12 the money wasn't forthcoming to determine how to get Jho Low
13 to move the payments along. Tim Leissner and Roger Ng discuss
14 that Tim Leissner could use a company he already had set up,
15 Capital Place, to take in and disburse some of the funds if
16 Jho Low needed that additional help. That's the testimony
17 that you heard from Leissner about what was going on during
18 that time period.

19 He also testified that a number of people were
20 complaining because they also had not been paid. One of the
21 people who said he was complaining was Jasmine Loo. She had
22 an account at Credit Suisse and she was waiting for her
23 payment as well.

24 We know from Tim Leissner's testimony that he did
25 not actually see bank account records from this case at all.

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1 This is Government's Exhibit 151. If you remember, he didn't
2 have access to Capital One bank account. He had everything
3 from that account from Judy.

4 Here's the money flow from Project Magnolia that
5 forensic accountant Eric Van Dorn walked you through. The
6 money flow itself is corroborating Leissner's testimony about
7 the payments of the bribes and the kickbacks out of Project
8 Magnolia.

9 Who gets paid first? The most important people to
10 the deal, so that's Jho Low, that's Prime Minister Razak,
11 Qubaisi, Hussainy. Then we get to Roger Ng and Tim Leissner.
12 We know that Jasmine Loo got paid next. And that the
13 Heartland Global account that she gets paid into, is a Credit
14 Suisse account. These are the people that get paid relatively
15 soon after Project Magnolia closes, not as soon as the
16 defendant wanted. And then you get a payment to Yahaya in
17 August. But everybody else involved in the deal has to wait.
18 They don't get paid out right away.

19 You hear Tim Leissner says that Terence Geh is
20 complaining that those people don't wind up getting paid until
21 later.

22 The money flow confirmed that the most important
23 people get paid first, that included the Goldman bankers.
24 They needed Goldman to get the deal done. They had to wait
25 for the other payments to go through.

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1 One of the reasons that Goldman gets paid first is,
2 again, they needed Goldman to get the deal done.

3 Then what happened after Project Magnolia? Project
4 Maximus.

5 And the numbers are staggering. They raised
6 \$1.5 billion for Project Magnolia. And what do they want to
7 do? Another deal for another \$1.5 billion right away.

8 Tim Leissner testified that he had discussions with
9 Jho Low and the defendant, and that Jho Low wanted to do
10 another deal because he thought the scheme had worked well and
11 there was more money to be made in a similar scheme. He
12 wanted to do it very quickly.

13 Also at this part, the hard part is done. They've
14 come up with the structure. They've gotten everybody on
15 board. They figured out who they have to pay. The bank
16 accounts are set up. So it's very easy for them to cut and
17 paste the deal that was Project Magnolia into the deal that is
18 Project Maximus. That is what in fact happens.

19 We know that the defendant worked on Project Maximus
20 as well. He's on the committee memos. We saw e-mails
21 connected to his work on Project Maximus.

22 I want to show this e-mail, Government's Exhibit
23 1878. It shows that the use of the personal e-mails continued
24 through Project Maximus. This is a little bit hard to follow,
25 it's a long e-mail chain. But there is an e-mail on the

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1 bottom that's related to Project Maximus, which ultimately
2 gets forwarded to Jasmine Loo who then forwards it to Tim
3 Leissner and then the Queensgait Capital e-mail address and
4 Andy Tai.

5 If you remember, Andy Tai testified that he didn't
6 know who Queensgait Capital was. This is in the Project
7 Maximus time period, and can you see the bottom e-mail from
8 Jasmine Loo she says: Okay, thanks. She realized that she
9 copied Queensgait improperly. I accidentally copied an e-mail
10 to a wrong individual, so please reply in a new e-mail.

11 Andy Tai doesn't know about Jho Low, doesn't know
12 about the Queensgait e-mail address. And Jasmine Loo
13 accidentally included him on an e-mail that she had sent to Tim
14 Leissner and Andy Tai.

15 So we know during this time period, the defendant
16 and Tim Leissner are still communicating offline with Jho Low
17 and with Jasmine Loo about the deals as they are doing Project
18 Maximus. We know that the defendant is invited to the
19 committee meetings for Project Maximus, and we'll talk about
20 those in a bit.

21 This is Government's Exhibit 1873. We also know
22 that the defendant attends the Project Maximus closing dinner.
23 Project Maximus closes in October of 2012, so it's really
24 fast. We have Magnolia closing in May. Then this cut and
25 paste job for another 1.5 billion that closes in October.

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1 The defendant attends this closing dinner. And Andy
2 Tai talked about a dinner to celebrate a deal, you meet with
3 client. And that happened in Hong Kong. On the right-hand
4 side of your screen Government's Exhibit 1885, November 12,
5 2012.

6 We know from the defendant's own records that the
7 defendant had a dinner with Tim Leissner and Jasmine Loo the
8 night before that closing dinner, the three of them. We also
9 know that was the exact same time that the invoices get filed
10 for Jasmine Loo's purchase of diamonds and also the purchase
11 of diamonds that the defendant's wife makes from Karen
12 Collection. We'll go back to that later on. But we know that
13 as he's working again on Project Maximus, he's continuing to
14 use the defendant and Jasmine Loo, and he's using money from
15 the Silken Waters Victoria Square account. The money gets
16 paid in September, but they are making purchases of diamonds
17 in the same time in Hong Kong as Project Maximus is closing.

18 Back to Tim Leissner's testimony again. He was
19 asked whether he got his kickback from Project Maximus right
20 after that deal closing. He said it took longer than that.
21 The reason for the delay was that people had been promised
22 money out of Magnolia and they didn't get paid out of
23 Magnolia.

24 When you look at the waterfall for Project Magnolia,
25 we know that people like Terence Geh and Vincent Koh didn't

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1 get paid out of the Project Magnolia funds. They were so busy
2 taking money out for all these people, they just didn't pay
3 everybody with that initial set of money, so their payments
4 actually got delayed. So Leissner said that his payment and
5 Roger Ng's payment for Project Maximus didn't come right away
6 because Jho Low needed to pay out everybody else. He also
7 said that this is where he begins to use Capital Place to make
8 payments at Jho Low's direction to other participants in the
9 scheme.

10 So he originally used it to pay Roger Ng and is now
11 being asked by Jho Low to pay a bunch of other people.

12 You remember the e-mails that we saw where Jho Low
13 or Eric Tan is directing Tim Leissner to make payments to a
14 bunch of different shell accounts. And Tim Leissner testified
15 that his understanding was those individuals were participants
16 in the scheme. He gets the instructions; he makes the
17 payments.

18 If we look at Government's Exhibit 152, that is
19 exactly what we see actually happening. So this is the money
20 flow from Project Maximus, all of these people who didn't get
21 paid the first time around, get paid now. So you've got
22 Terence Geh, Koh, Jerome Lee, they get their first payments
23 out of the Project Maximus money. You can see that Capital
24 Place is now playing a bigger role and making some of those
25 payments at Low's direction.

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1 Then because Jho Low's reed knows no bounds, they do
2 Project Catalyze, the final deal, \$3 billion fundraising that
3 happens in March of 2013.

4 Again, this is the Capital committee memo for that,
5 the same process at Goldman. Tim Leissner worked directly on
6 this deal. The defendant did not work on this deal directly;
7 but he did, as we'll see as part of his role in the securities
8 division, he did sell the bonds for Project Catalyze.
9 Remember these are all debt transactions. So Goldman buys the
10 bonds first then they sell them to other people.

11 So the defendant was involved in selling the bonds
12 for Project Catalyze. And you can see that when they have
13 issues selling the bonds, he and Tim Leissner go back to Jho
14 Low for help to figure out who can buy them; because they had
15 done so many raises so quickly that they were having trouble
16 selling some of the bonds.

17 And so Jho Low at Deal Rainman address, is
18 connecting Tim Leissner with somebody in Malaysia who might be
19 interested in buying some of the bonds. And that then gets
20 forwarded to Roger Ng.

21 Again, third deal still communicating on personal
22 e-mail addresses, the Rainman address for Jho Low that gets
23 deleted, and the RogerNg1 gmail address that gets deleted.
24 You can see that they are discussing the global bonds from the
25 Project Catalyze deal.

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1 Then finally if we look at the transfers in the
2 Project Catalyze time frame, this is when Tim Leissner and
3 Roger Ng get the final transfers that I talked about earlier
4 this morning. We can see that in this time frame, some of the
5 money for these transfers actually does come from Project
6 Maximus. If you look at the payment out of the fake Aabar
7 account there with the asterisk, Eric Van Dorn testified that
8 money was left over from Project Maximus. And then there was
9 other money in the mix in these accounts that came from
10 Project Catalyze.

11 It also shows you that Leissner testified to what he
12 knew. His understanding from Jho Low was that they were
13 getting paid out from Maximus. They wouldn't get a separate
14 payment from Catalyze. And the money they were going to get,
15 was coming from Maximus or somewhere else. He didn't actually
16 know because he didn't look at the bank records that that
17 money was traceable to Catalyze. He thought it was coming
18 from somewhere else. But it's entirely consistent with his
19 testimony that all of these people were still waiting for the
20 second payment out of Project Maximus and that money came
21 later in time.

22 You can see that here because people like Vincent
23 Koh, Jerome Lee, Terence Geh get the second payments in this
24 time period, as does Tim Leissner, and as does the defendant.

25 I want to talk next about the second conspiracy that

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1 the defendant is charged with, which is the circumvention of
2 Goldman's internal accounting controls. I want to look at
3 what the defendant and Tim Leissner were doing to push the
4 deals through at Goldman.

5 What they did was to lie to the Goldman committees
6 and to conceal information from the Goldman committees to get
7 them to sign off. They obtained the authorization for the
8 deals by fraud. What I'm going to walk you through is
9 basically the four things that they did not disclose to the
10 committee.

11 Again, that there were bribes that were going to get
12 paid out of the money. That the fake Aabar account would
13 receive payments from 1MDB, and that really went to the
14 structure of the deal, right, the money goes into 1MDB then
15 gets pulled out to go to the fake Aabar account. That Low was
16 actually the key decision-maker behind the deals pulling the
17 strings. And that Roger Ng and Tim Leissner were going to be
18 receiving kickbacks from the deals, so they had a personal
19 financial interest.

20 That is what was not told to the committees. That
21 is what, had the committees known, they would not have
22 approved the deals.

23 To start, you heard testimony from a number of
24 committee members throughout the trial. One was Stephen
25 O'Flaherty, who is in the business intelligence group. They

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1 said that committee members need accurate information to
2 inform their decision. If they are going to make a decision
3 to commit Goldman's money to a deal, they need to have full
4 information about what is going on with the deal in order to
5 approve it. He also said that a deal wouldn't go forward if
6 they knew that bribes were being paid. And a deal wouldn't go
7 forward if there was a substantial payment that wasn't
8 disclosed. That it is important to Goldman to understand all
9 of the financial aspects of the deal in order to sign off on
10 them.

11 You heard similar testimony from Robert Mass and
12 Craig Broderick, other committee members, who talked about
13 they would want to know of any third-party, intermediaries
14 involved. They want to know if anybody on the deal team has a
15 personal conflict. These are all things that the committees
16 need to know before they approve a deal.

17 You heard testimony from Leissner about what the
18 agreement was with him and the defendant and a few others
19 about what to tell Goldman about Jho Low. The question he was
20 asked was basically, Jho Low had now rejected a bunch of times
21 private wealth management clients, rejected in 2010 in
22 Switzerland, 2011 in Singapore, you got the Kazak Gold
23 rejection. Why are you guys working with him for these, why
24 were you working with Jho Low for these deals? And the answer
25 is because Jho Low is the one that brought the deals to the

1 table. They are working with Jho Low because they had to.
2 They wanted to get the business in and they didn't want
3 Goldman to know that. So they needed to work with him, but
4 they needed Goldman not to know that is sort of the crux of
5 what is going on in this part of the conspiracy.

6 He talked to you about how they made a decision to
7 keep the information from the control functions. And that the
8 defendant and Tim Leissner, along with a couple of other
9 people, Andre Vella, Toby Watson and Jonathan Dunne knew that
10 Jho Low was involved.

11 Again, there is a distinction. The defendant and
12 Tim Leissner knew about the bribes; the other people knew that
13 Jho Low was on the edges. They are all business people. They
14 know Jho Low is involved. They make a decision, we want to
15 get these deals done, if Goldman knows that Jho Low is
16 involved it's not going to happen, so we're going to agree
17 that we're not going to talk about Jho Low on Goldman e-mails,
18 keep it off of the system. We're not going to mention to the
19 committee that Jho Low is involved, that's how we're going to
20 get the deals done. That's exactly what you see happening.

21 We walked through all the e-mails where Tim Leissner
22 and the defendant are e-mailing with Jho Low not on Goldman
23 e-mails to keep him out of the mix. And we're going to see
24 all the ways in which they also didn't disclose him to the
25 committees.

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1 One point here is about Andy Tai, the junior banker
2 who you heard from in the beginning of the trial. This is
3 testimony from him about how he didn't know Jho Low was
4 involved. And he is working 80- to 90-hour weeks with the
5 defendant and Tim Leissner on these deals to get them done.
6 You see him all over the official Goldman e-mails related to
7 the deals. He's working on the committee memos. He didn't
8 know that Jho Low is involved. That's really significant,
9 because the defendant and Tim Leissner are keeping this
10 information close. They are keeping it close. Andrea Vella
11 Toby Watson, a couple of people know, but most do not,
12 including the people working constantly on these deals like
13 Andy Tai.

14 The reason why they needed to keep the information
15 so close is because they could not risk Goldman knowing that
16 Jho Low was involved. And they certainly couldn't risk
17 Goldman knowing that the money was going to get paid to bribes
18 and to kickbacks.

19 You heard Andy Tai say that he did talk to the
20 defendant about Jho Low at some point and the only thing the
21 defendant said about Jho Low was that he was a boy from
22 Penang. Keep that in mind. The defendant is traveling with
23 Jho Low, e-mailing with Jho Low, gambling with Jho Low. And
24 all he says to Andy Tai is he's a boy from Penang.

25 The bond deals were debt transactions. That means

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1 that Goldman is using its own money to buy the bonds in the
2 first instance. You see that in Government's Exhibit 53A,
3 Goldman's role is that they would purchase the bonds first.

4 Then this is also testimony from Broderick and Tai
5 about how for the bond deals Goldman used its own money. The
6 reason that that matters is because if Goldman is using its
7 own money for a deal, they need to get authorization from the
8 Capital committee and Suitability committee in order for the
9 deal to proceed. If Goldman is going to spend its own money
10 it wants to vet everything, make sure everything is okay,
11 before it commits to involving its own money into something.

12 So you heard testimony from Broderick and O'Flaherty
13 that Firmwide Capital and the Suitability committee reviewed
14 these deals for Goldman for Project Magnolia, Project Maximus
15 and Project Catalyze.

16 You saw the Firmwide Capital Committee Charter which
17 talks about having oversight of debt-related transactions.

18 You also heard testimony from Robert Mass an Andy
19 Tai who said these deals don't go through without the
20 committee approval.

21 We also know that the committees' authorization was
22 an internal accounting control. We saw these printouts, what
23 they call the inside database. And you heard testimony, which
24 I'll show you in a minute, from Sal Fortunato that these were
25 controls over financial reporting. And the risk is they need

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1 to make sure that deals that go forward are authorized by the
2 committees.

3 This is Government's Exhibit 952. Then Sal
4 Fortunato testified that the inside database, where the
5 internal controls over financial reporting and making sure
6 that debt-related transactions received approval was in fact
7 one of those internal accounting controls.

8 So what Tim Leissner told you, and what is clear
9 from everybody else's testimony at Goldman, the only way they
10 were going to get authorization for these deals where billions
11 of bribes were being paid, was to lie to the committee. The
12 only way to get authorization is to obtain it by fraud.

13 They knew they couldn't tell Goldman the truth about
14 any of four things: The fact that bribes were going to get
15 paid. The fact that Roger Ng and Tim Leissner were going to
16 get paid. The fact that money was going to go from 1MDB to
17 Aabar. And the fact that Jho Low was in fact the
18 decision-maker behind the deal. None of that could be known
19 to Goldman. So they obtained the committee's authorization by
20 lying to them.

21 We know that the defendant knew that it was
22 important to be honest and to provide material information to
23 the committee. We know that because every committee member
24 came in here and told what you the expectations were of
25 Goldman employees, that they would be honest and they would

1 provide accurate information about any deal before the
2 committee to Goldman.

3 This is Robert Mass providing that testimony,
4 because they wanted to kick the tires on every corner of every
5 transaction. It's important that the deal team members
6 disclose everything.

7 You heard it from Andy Tai. As he sits here today,
8 he is now a managing director at Goldman Sachs. He said as a
9 managing director, if he knew that false information was being
10 provided he had a responsibility to speak up. He knows he
11 can't lie to the committees. He knows he can't conceal things
12 to the committee.

13 You know that the defendant, who was a managing
14 director at the time, knew that as well.

15 (Continued on next page.)
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24
25

1 MS. SMITH: And you also knew that the defendant
2 knew that Goldman committees will focus on concerns about the
3 risk of government corruption generally and about Jho Low in
4 particular.

5 These are the committee memos. This is an example,
6 Government Exhibit 803. In the committee memos themselves
7 they talk about concerns, deals property and government
8 cronies. This is something that they're worried about, is a
9 risk factor for the deal, and Roger Ng knew that he needed to
10 tell Goldman that he knew something about this. He knew that
11 someone was going to get paid out of the deal. And we know
12 Roger Ng worked on these committees memos because he would --
13 Andy Tai testified that all the deal team members contributed
14 information and reviewed them, Andy Tai is the junior guy who
15 is assembling them, but Roger Ng knew that this is what the
16 committees were looking at.

17 And if it wasn't clear from the memos, it was also
18 clear from the testimony that you heard. So, Stephen
19 O'Flaherty testified that at the committee meeting he raised
20 the question of Jho Low, and Tim Leissner lied to him. And so
21 the defendant, who we know was on all of those committee
22 meetings -- and we'll see those invites in a minute -- knew
23 that not only were they worried about government corruption
24 generally, but they were worried about Jho Low in particular
25 and there were specific questions asked at the committee

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1 meetings about Jho Low.

2 You also heard that testimony from Andy Tai. He
3 said his memory was that the question was that Jho Low was
4 involved in the transaction and Tim Leissner responded and
5 said -- answered no, and that nobody else spoke up and said,
6 actually, Jho Low is involved.

7 And we know at the time of these committee
8 meetings -- the first one is in April, the second one is in
9 May, there is an Asia Pacific meeting at the end of March --
10 the defendant is e-mailing constantly with Jho Low offline.
11 He's going -- April 21st, he's going to a meeting with
12 BSI Bank with Jho Low aside in a separate private room. He
13 knows Jho Low is involved because he's dealing with him all
14 the time and he does not say anything.

15 We also saw an e-mail, which is Government
16 Exhibit 1974, where Andy Tai responded in connection with
17 Project Maximus to a specific question about whether Jho Low
18 was involved in the deal from the compliance team. If you
19 remember, it is a really long e-mail chain which at some point
20 gets forwarded to the defendant. And you can see that
21 Andy Tai, based on the information he has from the deal team
22 which includes the defendant, has no idea that Jho Low is
23 involved and that is an e-mail that the defendant ultimately
24 receives himself.

25 And then I'm just going to walk through this

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1 quickly. You know from Special Agent Cohen's testimony that
2 the defendant not only received but accepted invites to all
3 the committee meetings for Project Magnolia. This is the
4 suitability committee meeting, this is the Firmwide Capital
5 Committee meeting; and then there was another call, I think
6 later in May, with a separate capital committee meeting.

7 And then we know from Tim Leissner's testimony, but
8 also from looking at the committee memos for Maximus and
9 Catalyze, that the same thing happened with the other two
10 deals. None of that information is in the committee memos,
11 none of that information gets disclosed to the committees.

12 So for all three deals, the committees' approvals
13 were obtained by fraud.

14 I want to move on quickly to the money laundering
15 conspiracy. As I said at the outset, you know, for money
16 laundering -- the Judge is going to explain to you the
17 elements and I am going to go through them a little bit more
18 in a minute -- but basically, you know, if you send -- there's
19 sort of three ways in which money laundering is charged here:
20 One is sending money into, out of or through the United States
21 when it's from a crime and the purpose of the transfer is to
22 conceal the fact that the money is from a crime; if you send
23 money in, out or through the United States in furtherance of a
24 crime, which is called promoting a crime; or, if you spend or
25 transfer over \$10,000 in dirty money in the United States. So

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1 at a very high level sort of, we know that this bribery and
2 money laundering conspiracy, at every stage money is either
3 being transferred to conceal the source of the funds in
4 furtherance of the bribery scheme or to spend in excess of
5 \$10,000, and we see that sort of all the way through the
6 transaction. The whole money flow, each one of these is a
7 separate money laundering transaction, and we've talked about
8 how many of these wires went through the United States because
9 they were U.S. correspondent bank wires.

10 And you heard testimony from Roberto Amenta from the
11 Fed about how these money transfers happened instantaneously
12 and that any money transfers in U.S. dollars that's handled by
13 Fedwire or CHIPS must go through the United States -- and we
14 walked you guys through that diagram -- and that's true for
15 all of those wires.

16 He also told you -- and this is important to keep in
17 mind -- that the reason that people like to do U.S. dollar
18 denominated transactions is they like to use the U.S. monetary
19 system. The U.S. dollar is stable, the U.S. monetary system
20 is well established, and it's a way in which you can transact
21 business and know that your transactions are going to go
22 through and be secure, and so there is a reason why people
23 come to the U.S. and use the U.S. financial system. And
24 they're doing that in this case because they want their
25 transactions to be secure and they're use Fedwire and CHIPS

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1 which go through the U.S. And again, this chart, which is
2 multiple pages and lists many of the transactions for the
3 case, not only did all of these wires go through the U.S.
4 that's on this chart, but many of them also passed through the
5 Eastern District of New York either because CHIPS was
6 processing in New York or because they're Fedwire banks which
7 have their major accounts in New York.

8 And then we also see many wires. This is Government
9 Exhibit 154, which is the chart related to the defendant's use
10 of funds, which we're going to walk through right now. But
11 all of these transfers are money laundering transfers as well.

12 And so just at a high level, the money laundering
13 conspiracy evidence that I want to sort of walk you through
14 are the defendant's efforts to conceal the receipt of the
15 criminal funds and the transfers of those criminal proceeds
16 and so he uses a British Virgin Islands shell company and
17 nominee director, they use Tan Kim Chin's name, they use those
18 e-mail accounts that we talked about, they make false
19 statements about the source of the funds and then there's the
20 attempt to destroy the mail and shut down Silken Waters
21 Victoria Square once it's received all of the monies from the
22 crimes. We also saw that the defendant himself controlled the
23 funds in those accounts and also once they were transferred
24 out, and we also saw transactions in excess of \$10,000 in the
25 United States by the defendant.

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1 And so let's just walk through some of this quickly.

2 Again, you've got the use of the kctan9983 Gmail
3 account and the Victoria Square e-mail account. And this, you
4 know, these are discussions of some of the money transfers.
5 The top e-mail, 2479, is a discussion of investments that were
6 going to be made out of the account. If you remember that one
7 is signed "R," which is a way a lot of the defendant's e-mails
8 in other accounts were signed.

9 And then if you look at the bottom, you can see the
10 use of the kctan e-mail account to talk about -- Ms. Lim
11 writes "need to make my payment for my bling bling purchase,"
12 and that's a reference to the use of the money from Silken
13 Waters/Victoria Square, which, again, is all proceeds from the
14 bribery scheme to purchase the diamonds from Karen Collection.
15 So again, you can see that the defendant is directing
16 investments and Ms. Lim is the one who is directing payments
17 out of the Silken Waters account. And again, I think this
18 puts the lie to Ms. Lim's testimony that the Victoria Square
19 Investment e-mail address was only being used for receiving
20 research reports from UBS when, in fact, what it's being used
21 by is the defendant to monitor and direct investments in and
22 out of this account.

23 We also know about the false statements to conceal
24 the source of the funds, so they lie to UBS and say the first
25 transfer is from equity investments. And then the second two

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1 transfers, the lie is that it's a gold venture and it's
2 actually coming from two different people, that's why it's
3 coming from two different accounts, when we, in fact, know
4 that both of those transfers were coming from Judy Leissner.

5 And then again we see that the defendant and his
6 wife used the money from the account to make purchases and
7 investments. We talked about the Karen Collection jewelry,
8 the bling bling purchase. We talked about Roger Ng directing
9 investments out of the account. And then we also have this
10 hourglass from Rose Trading. Ms. Lim's own testimony was that
11 she wanted to buy the hourglass for the longest time. And at
12 the end, once the money comes in from the crime, she gets to
13 use the money to buy the hourglass. These are purchases that
14 Ms. Lim and the defendant are making for themselves out of
15 this account. And then Special Agent Fern also walked you
16 through a lot of evidence about they intended to use funds
17 from the account to purchase real estate in London. They
18 didn't actually wind up doing that, but again, all those
19 e-mails show the intention to control the funds in the
20 account.

21 We also talked here about -- this is Government
22 Exhibit 359-T. That's one of the recorded calls that you
23 heard from a bank. And this is the call where Ms. Lim and
24 Fanny Khng discuss destroying the mail for Silken
25 Waters/Victoria Square. And Fanny Khng says the mails can't

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1 be destroyed because you're using this nominee service and
2 they're being held in the British Virgin Islands. And Ms. Lim
3 says I want the mail to stop with you guys. And she asks
4 whether the mail will continue to be held overseas even if she
5 dissolves the company, and that's Silken Waters/Victoria
6 Square. And that's because she did not want records from UBS
7 related to this account sitting overseas somewhere else for
8 five years where someone can access them. She wants that
9 information to stay with the bank only and she doesn't want it
10 sort of out there. And we know that that is the reason why
11 she ultimately dissolves the company and asks them to stop the
12 mail. It's not because, as she testified, that it was too
13 expensive, because she could have switched to a different
14 service. And, in fact, she opened a shell company several
15 weeks later at the same time and put a mail hold on that one.
16 So it wasn't about the cost. It was about right here; I want
17 the mail destroyed and I'm upset that they're going to hold
18 onto it even if I dissolve the company.

19 And if we look, as Ms. Lim testified, they had this
20 phone call and then she goes ahead and just dissolves the
21 company immediately. Within a couple of weeks, they dissolve
22 the company. And you can see from a note in UBS that they do
23 this at a meeting that -- surprise-surprise -- the defendant
24 and his wife attend and they proceed to transfer all of the
25 money out of Silken Waters into another account in the name of

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1 the mother-in-law because they don't want any connection to
2 the stolen money. It's come in -- right? All of the
3 transfers in the account came in from the crime and they're
4 done and they want to move and put further distance between
5 them and that original account.

6 And then if we look at sort of the waterfall down
7 from Silken Waters where all the other places the defendant
8 and Ms. Lim moved the money, we can see that they controlled
9 those accounts as well, even the ones that were in the name of
10 Tan Kim Chin, the defendant's mother-in-law. So, River Blue
11 is the clearest one. We saw that the defendant gets his name
12 out of River Blue as an authorized user on July 1st, 2014,
13 just about four days after the last money from the criminal
14 scheme gets moved into that account. We also see that the
15 Tan Kim Chin account at UBS, there's a note in that account
16 that that account is actively managed by Ms. Lim and by
17 Roger Ng. And then if you look again at the money that gets
18 transferred from the -- between the two OCBC accounts -- and
19 those were two accounts that were in the name of Ms. Lim and
20 also in the name of Tan Kim Chin -- we see that Ms. Lim and
21 the defendant controlled the money in those accounts as well.
22 So, this is an example. This is that transfer of \$4.1 million
23 between the two accounts that happened in October of 2013. If
24 you look at Government Exhibit 397, that's the authorization
25 for the movement. And Ms. Lim writes that the reason that the

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1 money is being moved is to purchase land in Johor, which is an
2 area of Malaysia, and at the same day there is an e-mail where
3 the defendant is looking at investment properties in Johor.
4 And so we know that it's not just the money in Silken
5 Waters/Victoria Square that they control, but every time they
6 move it out, even if it's in Tan Kim Chin's name or somewhere
7 else, they're controlling that money.

8 And then again, we've seen this a number of times,
9 many of these transactions both coming into the account and
10 going out of the account pass through the United States and
11 many of them also pass through the Eastern District of
12 New York.

13 And then finally, there are transactions in excess
14 of \$10,000 in the United States because the shares of
15 Bristol-Meyers Squibb -- it's a U.S. company that they were
16 investing in -- the Karen Collection and the Rose Trading
17 Limited purchases were all transactions that went through U.S.
18 correspondent banks and through the Eastern District of
19 New York.

20 I want to take a minute here to talk about some
21 additional knowledge and intent on behalf of the defendant. I
22 want to look at two categories of evidence. One is sort of
23 the 2015 to 2018 time period and then I also want to talk
24 about Goldman's policies and procedures. And this evidence is
25 really about the defendant's knowledge and intent generally.

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1 It goes to all three of the criminal schemes and it really
2 ties in with a lot of what we've been seeing already from the
3 evidence that happened during the conspiracy time periods.

4 So you all know in 2015, you heard a ton of
5 testimony, that news reports about corruption at 1MDB sort of
6 increased and there was this Sarawak Report that was put out
7 in February 2012, and I think you heard testimony from Kevin
8 Swampillai that this was really big news. Ms. Lim herself
9 said everyone in Malaysia was following what was going on.
10 And so those news reports...

11 (Pause in proceedings.)

12 Sorry, I said February 2012. It's not in February
13 2012, it's in 2015, so I apologize.

14 So February 2015, after the conspiracy then, the
15 news reports about corruption at 1MDB increased. We had seen
16 news reports earlier; we will look at those later. But they
17 really pick up the pace at this point, and that's the point at
18 which the defendant and his wife delete four e-mail accounts
19 related to the criminal scheme. The Victoria Square account
20 gets deleted in February of 2015 and then Queens Gate and
21 those two Roger Ng personal accounts that we saw all over the
22 Goldman documents and all over the e-mails with Jho Low are
23 deleted in March of 2015. At the same time, the text records
24 show that Jho Low, who also deletes a lot of accounts -- and
25 we're going to talk about those in a bit -- stops traveling to

1 the United States, as does Roger Ng. So the text records that
2 we looked at, the last flights for both of them into the
3 United States, are in March and July of 2015. And you heard
4 testimony from Tim Leissner that Jho Low told him and the
5 defendant stop going to the U.S., you know, stay clear.

6 Leissner didn't follow those instructions; he wound up getting
7 a subpoena and then arrested. But there was this caution to
8 sort of stay out of the U.S. because things are heating up.
9 And we know in the same time period in 2015 that Roger Ng is
10 questioned for the first time by Malaysian authorities in
11 connection with the transfers.

12 So then we get to 2016 and the pressure continues to
13 build. As I said, Leissner didn't stop traveling, he winds up
14 getting subpoenaed. We know that Leissner and Roger Ng then
15 discuss that subpoena immediately afterwards in Hong Kong and
16 there are travel records showing that they're both there at
17 the same time.

18 And then in 2017, Roger Ng is detained in Singapore
19 and law enforcement asks Ms. Lim about transfers from
20 Capital Place. Ms. Lim testified that was the first time she
21 had heard of Capital Place. I submit that that doesn't make
22 any sense because the bank records themselves, which she did
23 receive the bank statements, you know, that you get on a
24 monthly basis, said that the transfers, the first two
25 transfers and one of the two second set of transfers were

1 coming from Capital Place. She said that's the first time she
2 heard of Capital Place. And what happens when the defendant
3 is detained in Singapore is really significant because the
4 defendant's detention is big news for Jho Low and for Tim
5 Leissner because they are concerned that these investigations
6 are starting to come closer to them.

7 And so I want to take a look at what happens when
8 sort of the defendant gets detained. These are sort of
9 messages that were from the defendant's -- sorry, from Tim
10 Leissner's phone. And he testified that these Super Energizer
11 Bunzzz address was Jho Low and his address is this Forza
12 address.

13 And so what happens in November of 2017 is Jho Low
14 contacts Tim Leissner and sends him this article about
15 Roger Ng's detention and there are a couple of things I just
16 want to highlight from it. It basically says that Roger Ng is
17 being held in Singapore and at the same point he was in a
18 meeting with BSI with Yak Yew Chee, Tim Leissner, and Jho Low
19 for discussions on Aabar. We know that that was, you know,
20 that meeting you heard testimony about. And then it says:
21 Looks like SG is still going full force. Not sure if as a
22 result of AG statement that 1MDB investigation is ongoing. So
23 basically what's happening is Jho Low is updating Tim Leissner
24 on what's going on with the defendant's detention in
25 Singapore. And you can see that Tim Leissner gets this and

1 then he and Jho Low have a four-minute conversation the same
2 day and Tim Leissner testified that was to discuss this
3 update.

4 And then what happens next? So two weeks later, on
5 November 16th, you can see what's on the left are phone logs
6 and what's on the right are text messages. These came from
7 the iPhone that Tim Leissner had on him when he was arrested.
8 The text messages and the phone calls are in different parts
9 of the phone report, so we've put them together on the same
10 page here. But you can see that Tim Leissner gets a
11 sixteen-minute phone call from Jho Low on November 16th, which
12 is the defendant discusses -- Tim Leissner said that they
13 discussed the defendant's detention. And then if you look on
14 the right, you can see shortly thereafter, the next day, the
15 defendant -- sorry, Tim Leissner, who is Forza, reaches out to
16 Morning Dew, which is Ms. Lim, and says heard the great news.
17 And the response is: Thank you. Can you speak? Leissner
18 responds: I can. And Ms. Lim says: Call you. And "heard
19 the great news" is that Jho Low had told Leissner that the
20 defendant was going to be released from Singapore and that is
21 the great news that Tim Leissner is then talking to Ms. Lim
22 about. And once they exchange these text messages, they then
23 speak; there's a thirty-second call and then a two-minute
24 call. And the significance of this is that as the pressure is
25 building and as the investigations are tightening and the

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1 circle is tightening, the people who are leaning on each other
2 and communicating about what's going on and concerned about
3 what's going on are Jho Low, Tim Leissner, and the defendant.

4 And then that pressure only increases in 2018. So,
5 we know from Ms. Lim's testimony that there was a June 2018
6 news report that was published that Roger Ng and Jho Low might
7 be arrested. And we know that Ms. Lim testified that she was
8 warned by a friend who was connected to Jho Low that Leissner
9 might be compromised. And we all know what compromised means;
10 it means he might be cooperating. And that's a problem for
11 them because they're all coconspirators and they're all in
12 this together. And so Ms. Lim testified that she has a video
13 call with Tim Leissner with the defendant present because she
14 said she showed Tim Leissner the defendant on the call and
15 relays that concern that Tim Leissner might be compromised.
16 And it's after that that there's a news report that Tim
17 Leissner is cooperating, and then Ms. Lim and Roger Ng began
18 to meet with Malaysian law enforcement. So all of this in the
19 sort of post-conspiracy time period, you know, the circle is
20 tightening, the investigations are coming closer, and the
21 people that are keeping in contact with each other about
22 what's going on and concerned about it are Jho Low, the
23 defendant, and Tim Leissner.

24 The other sort of category of evidence that I wanted
25 to just talk about that was general were the Goldman policies.

1 The Judge gave you an instruction that violating a policy
2 isn't itself a violation of law; and that's right, but what it
3 is is evidence of the defendant's knowledge and intent. And I
4 think Mr. Agnifilo said in opening that the defendant was a
5 process guy, and everything that you have seen so far today
6 shows that he was not because, in fact, all of his various
7 activities connected to these conspiracies were in violation
8 of Goldman's policies. And that's important only because he
9 knew there were policies in place and he chose to violate them
10 because he was hiding things from Goldman and he was hiding
11 the crimes that he was committing, and all of that is clear
12 when we look at what he was doing.

13 So the first is the Goldman policy on the use of
14 personal e-mail accounts. And you know that this gets
15 violated from day one with Jho Low. He's using Queens Gate
16 Capital, he's using Roger CH Ng, and he's using rogerng1@gmail
17 to communicate with Jho Low many times offline from Goldman.

18 You also know that he violated Goldman's policies on
19 private investments and outside activities. So we know that
20 he received kickbacks, obviously, from the 1MDB bond deals.
21 Those were not disclosed either upfront during the committee
22 process or at any other point. But we know from Ms. Lim's
23 testimony that he had a bunch of other shell companies, some
24 of which were created before the defendant left Goldman, so
25 that was the Queens Gate Capital and the Kingfisher company.

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1 We know that he was working out all of these side deals. And
2 Ms. Fraser from Goldman testified that she went back and
3 looked and none of these were ever disclosed to Goldman. And
4 you know that this is similar to Leissner, who also never
5 disclosed Capital Place or Kingsway or anything else to
6 Goldman either.

7 You also know that Roger Ng was familiar with
8 Goldman's anti money laundering policies. And Ms. Fraser
9 explained those policies to you and said that everybody got
10 training and she had checked and that Roger Ng got training.
11 And those policies talk about the same red flags that were
12 raised in the PWM process for Jho Low and in the Kazakh gold
13 transaction, talking about overly complex transactions,
14 unclear source of wealth, operations which touch higher risk
15 jurisdictions for bribery and corruption. Everything that Jho
16 Low -- you would be concerned about with Jho Low, unexplained
17 wealth, government connections, all of these were red flags
18 that the defendant knew were red flags because he sat through
19 all of Goldman's trainings on anti money laundering. And you
20 also heard testimony from Ms. Fraser that she had checked her
21 records and that the trainings he had received covered anti
22 money laundering but also covered discussion of the
23 antibribery provisions of the FCPA and the internal accounting
24 controls provisions of the FCPA. And that's at transcript
25 page 4087.

1 So there are sort of two more things I want to do
2 with you briefly. And the first is, as I said, I just want to
3 walk you through some of the legal elements of the crimes that
4 the defendant's been charged with. Again, whatever
5 Judge Brodie says controls. This is just meant to sort of
6 give you a preview and to talk about a couple of the key terms
7 that you might hear.

8 The first crime, Count One, is conspiracy to violate
9 the FCPA's antibribery provisions. And the elements are that
10 there has to be an agreement to pay a bribe to a foreign
11 government official to obtain or retain business, that the
12 defendant knowingly and willfully became a member of the
13 conspiracy, and that any one of the coconspirators committed
14 at least one overt act during the conspiracy. And we'll talk
15 about overt acts in a minute, but I submit to you that all of
16 the evidence that you've seen so far clearly shows that the
17 defendant agreed with Leissner and Low and others to pay
18 government officials bribes, to obtain or retain business, and
19 that he knowingly and willfully became a member. And we're
20 going to walk through some of the overt acts or the specific
21 actions that were taken in furtherance of the conspiracy.

22 This count has two objects, which just means two
23 different ways that the crime can be committed. One, you can
24 violate the FCPA as an officer, director, employee, or agent
25 of an issuer, which we'll talk about in a minute, or as a

1 stockholder acting on behalf of an issuer. That's one way you
2 can violate the antibribery provisions. And the other way is
3 called a territorial prong, which just means you're violating
4 the provisions while you're in the territory of the
5 United States.

6 And so just to go through a few sort of technical
7 terms that you will hear in connection with the antibribery
8 provisions.

9 The first is "instrumentality," which is just an
10 entity that's controlled by the government. And we actually
11 -- you saw stipulations that 1MDB, IPIC, and Aabar are all
12 instrumentalities under the FCPA, which just means they're
13 government-owned entities, which makes anyone who works at
14 those entities a government official. So someone like Jasmine
15 Loo, because she works at 1MDB, is a government official of
16 Malaysia.

17 The other term that you're going to hear, which I
18 just read, is "issuer." And that just means a company that
19 issues stock in the United States. And the Goldman Sachs
20 Group -- you heard testimony from Vikram Sarker's and Andy Tai
21 and lots of other people that Goldman Sachs issues stocks in
22 the United States and therefore is an issuer under the FCPA.
23 And that's the Goldman Sachs Group that's the public company
24 headquartered at 200 West in Manhattan that everybody works
25 for.

1 Two other terms are just a stockholder of an issuer,
2 which just means someone who owns stock. And, as you know,
3 Roger Ng was a stockholder of Goldman. We saw in his bonus
4 performance that every year as part of his bonus he would get
5 issued stock by Goldman. You know, we saw that in 2012 that
6 stock was worth about \$1.23 million. And we know from
7 Vikram Sarker's testimony that the bond deals made money for
8 Goldman and that that money was allocated among all the
9 various subsidiaries and then that money was sort of rolled up
10 into the public company's names. So when the defendant was
11 acting on behalf of Goldman for the bond deals, he was acting
12 as a stockholder of Goldman to benefit the public company.

13 And the same thing with employee or agent. We know
14 that Roger Ng was an employee of Goldman between June of
15 2005 -- and actually, that's the wrong thing that's
16 highlighted, it's May of 2014, and that he was employed by
17 Goldman that entire time. You saw some subsidiaries that he
18 was employed at in Malaysia and Singapore and we know a
19 subsidiary is just sort of a company underneath the parent
20 company. And Vikram Sarker testified that all of the
21 subsidiaries he worked for all received money from the bond
22 deals as well. And so, you know, Roger Ng is employed by
23 Goldman, the issuer, and he's working on behalf of that issuer
24 even at the sublevel because it all winds up being work for
25 Goldman, the company.

1 And then the final requirement is an overt act by
2 Roger Ng or any coconspirator. And the Judge will instruct
3 you that the overt acts do not need to be criminal in and of
4 themselves but they're just an act or a step that's taken in
5 furtherance of the conspiracy. So those could be meetings,
6 they could be committee memos, money transfers, e-mails, phone
7 calls, any of those could be an overt act. You will see, when
8 you get the jury instructions, that there are some specific
9 overt acts listed. You can find one of those acts or you can
10 all find another act as well.

11 Count Two is conspiracy to circumvent Goldman's
12 internal accounting controls. And the elements for that are
13 just an agreement or understanding to circumvent or to avoid
14 the internal accounting controls that Goldman puts in place to
15 make sure that the money that it spends is adequately
16 controlled so that its assets -- and again, the debt
17 transactions are where they were spending their own money --
18 are safeguarded. And that's because they're a public company,
19 people have invested in them, and they can't just be spending
20 their money on something that's risky and they're going to
21 lose money for the public company. And so all of those
22 internal controls are designed to make sure that the money
23 that's spent from Goldman is spent with the proper
24 authorization. And we know here that there was a conspiracy
25 to get that authorization by fraud to circumvent the controls

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1 that were in place to make sure that Goldman's money wasn't
2 spent on things like bribes and that Roger Ng knowingly and
3 willfully became a member of that conspiracy.

4 And again, for this count, needs to show an overt
5 act. So you have seen this before. This is Government
6 Exhibit 952, that the committee's authorization suitability
7 committee, capital committee was an internal accounting
8 control at Goldman. And then again, any of these things,
9 meetings, information committee memos, approval by committees,
10 statement to committee members, anything that's sort of taken
11 in furtherance of the committee could be an -- furtherance of
12 the conspiracy could be an overt act; e-mails, phone calls.

13 And then finally, Count Three is the money
14 laundering conspiracy. And we talked about that a lot, so I
15 will be fast. But it's an agreement or understanding to
16 violate a law of the United States and that the defendant
17 knowingly and willingly became a member of the conspiracy.

18 Excuse me.

19 For the money laundering conspiracy there is no
20 overt act requirement. So for Counts One and Two, we have to
21 show an overt act. For Count Three, we don't. It's just sort
22 of the way that the law is written.

23 For Count Three, there are three objects, which I
24 talked about before, which are just three different ways that
25 you can carry out the conspiracy.

1 One is the transfer of funds to, from, or through
2 the U.S. to promote a specified unlawful activity. A
3 specified unlawful activity is just a crime, and we'll talk
4 about which ones there are. And then to promote is just to
5 cause.

6 The second object is to transport funds to, from, or
7 through the United States to conceal or disguise the origin of
8 the funds. And this is, you know, sort of everything we
9 talked about; all of the coconspirators, including the
10 defendant, trying to hide where the funds are coming from,
11 their connection to the funds, their connections to the
12 accounts.

13 And then the third is a monetary transaction in
14 interstate commerce with criminal proceeds from a specified
15 unlawful activity that had a value of over \$10,000. So again,
16 spending more than \$10,000 on a transaction of dirty money in
17 the United States.

18 And then for the money laundering conspiracy, these
19 are the four crimes that are sort of the specified unlawful
20 activity, the source of the dirty money. So violations of
21 antibribery provisions, which is the bribery conspiracy in
22 Count One, violations of internal controls, which is the
23 circumvention conspiracy in Count Two. Violations of
24 Malaysian law, as well, qualifies. So there are two types of
25 violations of Malaysian law. The Malaysians also have a law

1 against bribery of a public official. And then Malaysian law
2 also has a law against misappropriating public funds for the
3 benefit of a public official. So stealing money from 1MDB,
4 for example, to pay to a public official is a violation of the
5 law in Malaysia. So any of these four can be the crimes that
6 are the source of sort of the dirty money.

7 And then the last legal requirement I want to talk
8 about is venue, and venue is a different standard. Everything
9 else, it's the government's burden to prove beyond a
10 reasonable doubt. Venue is a preponderance, and the Judge
11 will explain that that is a lower standard than reasonable
12 doubt. And basically what it is, is it means anything for
13 each of these three conspiracies, there needs to be something
14 that happened, an act by the defendant or any coconspirator,
15 if reasonably foreseeable to the defendant, that happened or
16 was caused by the defendant in the Eastern District of
17 New York. And so that's going to be defined for you to
18 include Brooklyn, Queens, Staten Island, Long Island, and then
19 the water surrounding Manhattan and the Bronx and the water
20 surrounding the island of Manhattan. And you will hear that
21 conduct to and through the District is sufficient, including
22 electronic impulses like e-mails, bank transfers, and
23 telephonic communications.

24 And so very quickly, because we've been through this
25 a lot before, travel to, from, and through the Eastern

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1 District of New York in furtherance of a conspiracy would all
2 qualify for venue. We know that Tim Leissner traveled through
3 the Eastern District of New York in March, on March 26th, for
4 that meeting with Ananda Krishnan on Project Magnolia and that
5 Roger Ng had originally been scheduled to attend that as well
6 and to stay at the same hotel. And we know that Leissner and
7 Low traveled to Teterboro and into Manhattan for the meeting
8 and then Leissner traveled outside from Manhattan to JFK and
9 then out from JFK on both ends passing through the Eastern
10 District of New York.

11 Sorry, we have to change the battery on this. One
12 second.

13 (Pause in proceedings.)

14 Okay. Can you hear me?

15 Yes, okay.

16 So, in addition, we saw actually the
17 Defendant Exhibit 3. If you remember, that was the TEEMs
18 charts and it had a lot of Tim Leissner's TEEMs on it and
19 there were a bunch of meeting in New York. The chart was
20 inaccurate in some way, and one way is that it missed a
21 meeting in New York, but there were listed a number of
22 meetings in New York in connection with 1MDB business, all
23 which happened in Manhattan, which requires travel through the
24 Eastern District of New York, and there are four that are
25 listed there. And then we know that Roger Ng also made

1 multiple trips to New York to meet with Jho Low, including the
2 meeting in the Prime Minister -- the meeting with the Prime
3 Minister's children in Jho Low's apartment.

4 We also heard testimony from Mr. Harris, who worked
5 for Goldman, about the data pads for Goldman phone calls and
6 e-mails. Goldman's headquarters is located in Manhattan and
7 there are four data pads on and off down in Manhattan, all of
8 which pass through the Eastern District of New York, and so
9 any e-mails or phone calls with Goldman employees in New York
10 would have passed through the Eastern District of New York.
11 And we know that all of the committee meetings were based in
12 New York and involved individuals based in New York and that
13 many of the people who worked on the deals, some of them were
14 in New York at various points or worked in New York as well.

15 We also know that the money transfer wires in
16 furtherance of the conspiracies passed to and through the
17 EDNY. We know the CHIPS wires were processing in New York on
18 certain days. And we also know for Fedwire, that when the
19 wires were Fedwire, that sometimes the banks, the major banks
20 had their headquarters in Manhattan and communicate with the
21 data servers in Texas or New Jersey as well every time that
22 there was a wire transfer. And again, Government Exhibit 159,
23 many of the wires in there which are sort of denoted by the
24 green checkmark all passed through the Eastern District of
25 New York.

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1 And then finally, for certain of the purchases to
2 promote or to launder money took place in New York.

3 You got the artwork that was purchased from
4 Christie's.

5 You got the Lorraine Schwartz jewelry that was
6 purchased in New York.

7 And then the Samilor Enterprises, that was
8 Ms. Belkin who testified about those \$130,000 Hermes bags that
9 were purchased. She testified that her bank account was
10 located in Syosset, New York. And remember when Roberto
11 Amenta testified that the wire would have gone from outside
12 the U.S. into the U.S., but the name on the actual wire
13 transfer listed her business address, not her bank. She
14 testified that her bank was located on Long Island.

15 And then we also know that the jewelry purchases and
16 the hourglass purchase also were transfers that went through
17 the Eastern District of New York because those were both CHIPS
18 wire transfers that were processing here.

19 Your Honor, I probably have less than ten minutes.
20 I don't know, I know we normally break now for lunch, but I
21 can push through.

22 THE COURT: Why don't you finish up and then we will
23 break.

24 MS. SMITH: Okay.

25 So the last thing I want to talk to you about -- and

1 like I said, I promised ten minutes and keep an eye on the
2 clock -- is the defendant's behavior and how it was
3 coordinated with all of the other coconspirators in the case.

4 The defendant is up here on this board with
5 everybody else who received funds from these criminal schemes
6 and he's up here because he also received funds from the
7 criminal schemes. And the defendant would have you believe
8 that he is the only one up there who didn't receive them
9 because he knew what was going on, that he accidentally
10 received those, and I think all of the evidence you've already
11 seen makes it clear that that is not what happened.

12 But what I want to do is walk you through some
13 additional evidence, some of which you've seen before, some of
14 which I'm sort of putting together in a different way that
15 shows everything that the defendant did was in line with what
16 all of the coconspirators were doing and that they all
17 participated in the schemes together.

18 So, you'll see that they worked together on the 1MDB
19 bond deals and other business deals; they all sought to
20 conceal Low's connections with 1MDB; they had friendships with
21 each other outside of business dealings; they used shell
22 companies to conceal criminal proceeds -- you've got the names
23 of all of those up there -- they created bank accounts shortly
24 before receiving criminal proceeds; they lied about the
25 purpose of the funds transfers; they used family members and

1 associates to conceal the connection to the accounts; they
2 purchased luxury items with the criminal proceeds; they
3 created e-mail accounts to communicate about business,
4 including 1MDB, to communicate about transfers about criminal
5 proceeds, to impersonate other people to further distance
6 themselves from the conspiracies, and they all deleted
7 conspiracy-involved e-mail accounts in 2015. So again, the
8 defendant worked with the coconspirators, all of whom received
9 criminal proceeds on the 1MDB bond deals. You've seen that on
10 the e-mails and the documents involving the deals.

11 He also worked with many of the coconspirators on
12 other business deals. So the top left we have Roger Ng
13 e-mailing with Yak Yew Chee and Terence Geh about another
14 business deal related to SRC, which is another 1MDB deal.
15 We've got e-mails with the defendant and Low and some of these
16 people and the side deals that we talked about, Stephen
17 Dattels' other deals. And we know that Larry Low, who is the
18 defendant's -- sorry, who is Jho Low's father, was e-mailing
19 in December of 2013 -- that's Government Exhibit 2420 -- about
20 how Roger Ng was going to help him, talking about bridging a
21 loan for a project. So these are people who are not only
22 working together on these deals, the very deals from which the
23 criminal proceeds come from, but on a bunch of other deals as
24 well all in the same time frame.

25 We know from Leissner that Low was very particular

1 about concealing his connections to 1MDB. He wanted to be the
2 man behind the scenes. He often said don't use names, don't
3 connect me. And we saw that already in a lot of the e-mails
4 that the defendant himself received from Jho Low. So, you
5 know, don't connect me to anybody, the king, don't connect me
6 to 1MDB, do not state names, exclude me from this e-mail going
7 forward. The defendant was aware of this and all of the
8 participants in the scheme worked to keep Jho Low's name from
9 being connected to 1MDB.

10 (Continued on the next page.)
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25

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1 (Continuing.)

2 MS. SMITH: The defendant and Ms. Lim had personal
3 relationships with the co-conspirators. We saw that the
4 defendant and Terence Geh often emailed about personal stuff.
5 The defendant RSVP'd to Jerome Lee's wedding with his wife,
6 Hwee Bin; and there was a discussion about also the jewelry
7 purchases with Jasmine Loo and how Ms. Lim -- they would bump
8 into each other in the neighborhood, so they had connections
9 separate and apart from 1MDB also.

10 We know that the defendant and Ms. Lim had many of
11 the co-conspirators in their contacts. These are, again, for
12 the defendant because he deleted his email account, these were
13 the contacts that were backed up to his iCloud. You've got
14 Terence Geh, you've got Azlin Alias, you've got Vincent Koh,
15 you've got Amhari Nazaruddin; and then you've got -- in the
16 defendant's contacts, you've got the Deal Rainman emails as
17 well.

18 We also know that the defendant's information was in
19 Catherine Tan's contacts, and that's -- Catherine Tan is Jho
20 Low's assistant who set up \$110,000-a-month apartments and a
21 yacht; and we know that it was the defendant's email
22 information and phone number in Catherine Tan's contacts and
23 not Tim Leissner's.

24 We know that the defendant and co-conspirators
25 created bank accounts shortly before receiving money from the

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1 crimes, so we already looked at the Silken Waters account
2 needing to be opened urgently right before the money comes in.
3 There is a similar email from the Nik Faisal email account,
4 which is Government Exhibit 2259 where he's asking BSI to open
5 an account for him urgently in, again, less than two months
6 before the money actually comes in. And then you've got
7 Terence Geh and Jasmine Loo also opening their bank accounts
8 less than a month before they received their payments out of
9 Project Maximus. So it was a pattern; everyone knows the
10 money is coming in; they need to open clean bank accounts that
11 are going to receive the criminal proceeds.

12 We know the defendant and his wife lied multiple
13 times about the money that was coming in. Got the excuse
14 about the equity investment and the gold investment. Well,
15 everybody else was lying about that, too. So you see that
16 Jerome Lee on the right there said that he expected the money
17 in the account to be employment income, which it was not; it
18 was money from the scheme.

19 And then on the left, you can see that Terence Geh
20 is getting asked questions from his bank about what the money
21 from Capital Place was for, and he says it was a loan on
22 personal capacity, and you know that's not true. You know
23 that the money that Terence Geh received was money from the
24 scheme.

25 We know that a lot of the co-conspirators used

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1 family members and others to conceal their connections to the
2 account. So you've got the Eric Tan Kim Loong for Jho Low;
3 you've got Jude Leissner for Tim Leissner; Ms. Lim and Tan Kim
4 Chin for the defendant. Other people also used their wives or
5 their business associates.

6 They all purchased luxury items with the money from
7 the crimes. We saw the Karen Collection, the Rose Trading for
8 the defendant, and we've looked at these, sort of -- the
9 Christie's, the Rose Trading, Lorraine Schwartz, Samilor
10 Enterprises for other co-conspirators.

11 The email addresses that were created to communicate
12 about business, so you have got Queensgait Capital for the
13 defendant, and then you've got for Jho Low the Project
14 Lionfish and the Deal Rainman emails. And, again, this is
15 Government's Exhibit 2555-E, and this is one of the contact
16 cards that the defendant had backed up to his iCloud with all
17 of Jho Low's created email accounts that were used to
18 communicate about business related to 1MDB. And then we also
19 saw Project Dodobird for Jasmine Loo. We saw Jwo Gekko for
20 Jerome Lee.

21 The co-conspirators also created email accounts for
22 the transfers of money, so we've got the Victoria Square
23 account, the Capital Advisors account for Tim Leissner. And
24 then you can see for erictan.omc, he creates a special email
25 account just for that Alsen Chance shell company that winds up

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1 sending a lot of the money; and they created email accounts to
2 impersonate others. So, you know, we know that the KC Tan
3 9983 account was created to act as if they were Tan Kim Chin
4 when they were dealing with the bank. And we see the same
5 thing with -- excuse me -- we see the same thing with the Nik
6 Faisal SRC at Gmail address where Jho Low is using Nik
7 Faisal's name to talk to other people.

8 We also know the that co-conspirators destroyed
9 evidence of communications. We had the whole discussion about
10 Ms. Lim trying to destroy mail related to Silken Waters; and
11 you see the chat between Terence Geh and Jho Low, destroy all
12 chase -- traits, shred. Nik Faisal emailed telling Terence
13 Geh, delete this from your inbox from BBM, and we know that
14 Ms. Lim destroyed evidence of communications as well. So when
15 Special Agent Fern testified there were only three emails left
16 in the account, and the emails that were deleted were emails
17 like the email of Evelyn Teah setting up the account, or the
18 email with the Karen Collection invoices, we only have those
19 emails because we did search warrants on other accounts, and
20 Ms. Lim deleted those emails.

21 And then we know -- and you've seen this chart a
22 number of times -- Government Exhibit 72 -- that Roger Ng and
23 Ms. Lim weren't the only ones who deleted email accounts in
24 2015. We have all of the emails related to the defendants and
25 Ms. Lim, and then also to Jho Low, and Nik Faisal, and Eric

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1 Tan Kim Loong, and Jerome Lee, and Jasmine Loo. They were all
2 deleted between February 2015 and July of 2015, and they were
3 deleted in their entirety.

4 And I know you have seen this a lot before, so I'm
5 going to do this very quickly.

6 There were news reports before the deletions about
7 concerns about 1MDB and Jho Low's connection. You saw that in
8 2013. In 2014, even in the news report about the defendant
9 leaving Goldman Sachs, it talked about concerns about why 1MDB
10 needed to raise money so quickly. And then we see the first
11 deletion date is February 2015, and then there's a rash of
12 deletions in March to July. And we know that this is around
13 the time that the Sarawak Report gets published and that there
14 are other emails about concerns at 1MDB and the concerns that
15 stuff had been deleted at 1MDB, and we know that the defendant
16 was following it because his iCloud showed that he had
17 bookmarks for all of these various news sources. And we also
18 know it because he had -- Ms. Lim said it was the biggest
19 story in Malaysia; everybody was following it, and that's when
20 the email accounts get deleted. The email accounts you guys
21 have seen time and time again today, throughout the course of
22 the trial -- the Jho Low email account, the Deal Rainman email
23 account, the defendants four email accounts -- they all get
24 deleted in 2014 because they are covering up the evidence of
25 the crimes that they committed together.

Denise Parisi, RPR, CRF
Official Court Reporter

Summations - Ms. Smith

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1 I want to thank you for your patience, and for your
2 close attention, and for letting me run ten minutes over. I
3 promise I am about to sit down.

4 The evidence that we just walked through -- the
5 testimony from the witnesses, the bank records, the emails --
6 is overwhelming. It proves beyond a reasonable doubt that the
7 defendant received more than \$35 million in secret kickbacks
8 for his role in this brazen bribery and money laundering
9 scheme, and it further proves beyond a reasonable doubt that
10 the defendant hid information from Goldman in order to get the
11 committee approvals he needed for the deals.

12 The defendant and his co-conspirators committed
13 serious federal crimes, and it is important to keep in mind
14 that what he did caused real harm. Foreign corruption
15 undermines the public's confidence in international markets
16 and institutions, it destroys people's faith in their leaders,
17 and it is deeply unfair to everybody else who plays by the
18 rules; and when, as here, foreign corruption is undertaken by
19 the defendant and others working for an American bank
20 operating overseas, it impacts the confidence and trust in
21 American businesses worldwide.

22 Most significantly, the harm to the people of
23 Malaysia is immeasurable. Of the \$6 billion raised for the
24 three bond deals, almost half of that was stolen by the
25 defendant and his co-conspirators and spent on bribes,

Denise Parisi, RPR, CRR
Official Court Reporter

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1 kickbacks, and luxury goods instead of being used to improve
2 roads, electric grids, and otherwise make life better for the
3 people of Malaysia. It is for these reasons that the
4 defendant must be held accountable for his actions.

5 The only verdict that is consistent with the law,
6 the overwhelming evidence, and your common sense, is that the
7 defendant is guilty on all counts.

8 THE COURT: Thank you, Ms. Smith.

9 We are going to break for lunch. Please be back at
10 2:00 p.m., and we will hear the defense's summation. Please
11 remember that you still cannot discuss the case among
12 yourselves.

13 (Jury exits.)

14 THE COURT: Can someone close the door for a second,
15 please.

16 So I think I need to add a limited instruction re
17 the messages between Mr. Leissner and Low. I know, Ms. Smith,
18 that you specified that you are using them for the purposes of
19 knowledge, but there's nothing in my instruction about that,
20 so I think I need to add that language.

21 MR. AGNIFILO: That's fine.

22 MS. SMITH: Okay.

23 THE COURT: I will see the parties at 2:00.

24 (Lunch recess taken.)
25

Summation - Mr. Agnifilo

5306

1 A F T E R N O O N S E S S I O N

2 --oo0oo--

3 (Jury enters the courtroom.)

4 THE COURT: Please be seated, everyone.

5 Welcome back from lunch. Hope you enjoyed the
6 nice weather outside. We'll continue with summations from
7 the Defense.

8 Mr. Agnifilo?

9 MR. AGNIFILO: Yes, Your Honor.

10 Good afternoon, everyone.

11 So --

12 THE COURT: Is your mic on?

13 MR. AGNIFILO: Oh, it's --

14 Is that good? No?

15 THE COURT: No.

16 MR. AGNIFILO: Is that right?

17 THE COURT: Yes.

18 MR. AGNIFILO: Okay.

19 I want to start with where the Government left off
20 before lunch. A huge massive crime in Malaysia, front page
21 of newspapers every single day, billions and billions of
22 dollars stolen from a relatively small country of Malaysia
23 and the Government says: Well, maybe that's why Roger --
24 maybe that's why you deleted your emails, because of the
25 fear that you have being a Malaysian in Malaysia and

1 committing this massive crime.

2 But here's my question to think about: He's an
3 overseas Chinese person. He can move to China. He can stay
4 in China. His boss at Celsius, we know -- from what we've
5 been testified to, his boss at Celsius is saying, Come and
6 move to Hong Kong. You can operate Celsius out of
7 Hong Kong. All he needs to do is to go to Hong Kong. If
8 this is really something he's that concerned about, if this
9 is something that he did, if this is something he is guilty
10 of, there is a solution; and it's in his grasp. He can move
11 to Hong Kong and he's out of Malaysia, and he's certainly
12 out of the reach of the United States.

13 So let's start from that premise. He never
14 leaves. He never leaves Malaysia, the epicenter of this
15 activity. What is the money that is stolen? It's Malaysian
16 money that is stolen. Who is bribed? The prime minister of
17 Malaysia is bribed. He is a Malaysian. He stays in
18 Malaysia. He never leaves. He could have left. And why?
19 Because he's innocent. Because he's innocent. There's only
20 one explanation, and it's because he's innocent.

21 Hwee Bin Lim testified when she was here last
22 week: The truth itself will save him. He doesn't need me
23 to do a thing. Those were her words.

24 You know a lot more about Roger now than you did
25 when I delivered an opening statement to you, and I'm going

Summation - Mr. Agnifilo

5308

1 to tell you some of the things that you now know about him.
2 You know that he's a Malaysian citizen. You know that he's
3 an overseas Chinese person. That's the way that we've
4 described both Hwee Bin and Roger. You know that he studied
5 in England. He met Hwee Bin when he was in England. She
6 was 19 years old at the time; he was about the same age.
7 And you know things about him. You know that he and
8 Hwee Bin had a child, Victoria, on June the 3rd, 2012. That
9 timing is very, very significant, as we'll get to in a few
10 minutes. And you know that they got together in the early
11 '90s, and that they've been together every day since; 30,
12 32, whatever it is, that many years later.

13 You know that he lives with his niece despite what
14 Tim Leissner might say about -- I don't know, whatever he
15 said: That Roger wants more money, he needs more money. He
16 sent an email with a smiley emoji saying, This is more than
17 my bonus. You firmly see this is a man who lives within his
18 means. He doesn't need to commit a massive, oversized crime
19 to get something that he doesn't already have. He has
20 everything he needs. He had a good job at Goldman Sachs,
21 and he was well paid. He was very well paid. He didn't
22 need more money.

23 Hwee Bin's family comes from some means. He
24 doesn't need more money. There's nothing about his
25 personalty. There's nothing about his character. There's

Summation - Mr. Agnifilo

5309

1 nothing about his lifestyle that would leave you to believe,
2 Man, this is a guy who's really going to do something
3 drastic, do something criminal, do something reckless
4 because this guy needs more money. There's nothing about
5 Roger Ng that suggests that in the slightest bit. We'll get
6 to some of the other people in this -- in this ongoing saga
7 in a little while, and you'll see they're very different,
8 but not Roger.

9 You know that he lives with his in-laws, okay? A
10 lot of ground covered at this trial about the in-laws. They
11 have an address in Terengganu, but they live with the
12 daughter. I don't know. I mean, I'm under the impression
13 that every once in a while, parents in their seventies and
14 eighties sometimes live with their kids. And sometimes when
15 they live with their kids and their kids are lawyers like
16 Hwee Bin is, like Chee Khan Lim is, Hwee Bin's older
17 brother, sometimes they turn over a lot of responsibility
18 about finances to the kids. I don't think this case is, in
19 any way, unique. I don't think this is a dynamic that's
20 unique to Malaysia or the Far East. I think this is
21 probably something you guys have all seen at one time or
22 another in your daily lives.

23 So we know that Roger's in-laws live with them
24 because Hwee Bin Lim told us that. We know that Roger left
25 Goldman Sachs in 2014 and he made less money, and Hwee Bin

Summation - Mr. Agnifilo

5310

1 told you why: Because when they had the baby, he didn't
2 want to travel quite so much. He was traveling a lot.
3 That's what Hwee Bin said, he was traveling a lot. And you
4 see that he's traveling a lot. You see because we --
5 the Government made the poster of the three faces around the
6 world, you know, and there's a lot of other travel as well.
7 He travels a lot. He traveled a lot on business. They had
8 a child, a decision was made. He didn't want to travel
9 quite so much.

10 Now, we know also a lot about Hwee Bin. We know
11 she -- you guys can size her up for yourself. And let me
12 just -- this is as good a time as any to say this: This is
13 my assessment of the evidence. And to a certain extent, it
14 really doesn't matter because, really, the only assessment
15 of the evidence that matters is your assessment. So if I
16 give you an idea or an assessment or an opinion about the
17 evidence that accords with your opinion, you can adopt it,
18 you can incorporate it into your other opinions. If it
19 doesn't accord with your opinion, you can flat-out reject
20 it, because what's important is what you guys think. My job
21 until 5 o'clock when we stop -- and anyone can feel free to
22 raise their hand if I get too close to 5:00, that's fine
23 with me -- is basically to give you things that I hope are
24 helpful to you. You have a very important decision to make,
25 a critical decision to make, and it's my job to try to be

Summation - Mr. Agnifilo

5311

1 helpful.

2 So what do we know about Hwee Bin. And she just
3 testified last week, so I'm not going to go into it in
4 tremendous detail. She studied in London. That's where she
5 met Roger. She became friendly with someone named Siow Sin.
6 It was her close friend at the time, maybe even a best
7 friend at the time. And Siow Sin had someone that Siow Sin
8 referred to as an uncle named Kim -- Kim Song. She's also
9 called him Kim Jhun. One is Mandarin, I suppose. And
10 that's who that was. And she met this person on a number of
11 occasions. Okay?

12 It's the early 1990s. She's young, she's in
13 London. She's smart. She's educated. You can size her up
14 for yourself. She knows her way around money. She knows
15 her way around investments. She's fairly sophisticated in a
16 lot of ways.

17 And she gets to meet this guy Kim Song, and Kim
18 Song brings some people that he knows from China, and she's
19 impressed. He's affiliated with the China Railway, and she
20 explained to you that's significant because the
21 China Railway is part of the government of China. So this
22 means he's established. This means he's not a fly-by-night
23 guy, he's a serious guy. He's older than she is, and she
24 gets to talking to him. And she meets him socially -- all
25 right? -- because she knows him for a number of years. And

Summation - Mr. Agnifilo

5312

1 I won't go into all the details because she just testified
2 last week.

3 Time goes by. It's now 1996. It's six years,
4 about, since she met him. She's been in touch with him
5 throughout. I think she was asked, When was the last time
6 before '96 that you had met him? And she said that was
7 about 1994. Okay? And she meets him at a place called
8 Landmark in Hong Kong. She's with some friends, and Kim
9 Song is with some friends, and they sit down, and they start
10 talking.

11 Now, she described to you that around that time
12 things were somewhat tumultuous in Asia in terms of
13 finances. I think there is a financial crisis of sorts in
14 parts of Asia but not in China in 1997. So this was the
15 year before that. And she's talking to Kim Song, and she's
16 talking about the possibility of investing in his business
17 in China. And the way she described this to you is that
18 this is not uncommon.

19 Okay. Now, let's just stop here for a second.
20 We're all sitting here in Brooklyn. Okay? She's overseas
21 Chinese living in Asia; and so, in her experience, it's not
22 uncommon. That's her experience. One of the things that I
23 want to, sort of, like, make you guys sensitive to is why
24 the Government is taking us through all the different ways
25 that the Government feels it can prosecute this crime here,

Summation - Mr. Agnifilo

5313

1 because somebody went over a bridge or because an electrical
2 impulse went underneath the harbor or went through a wire,
3 or whatever. There are things that are happening that are a
4 matter of cultures and of habits and of customs from people
5 who are not here -- okay? -- from people -- in terms of
6 people who are somewhere else. In this case, overseas
7 Chinese people living in the Far East.

8 And what she told you is that this is not an
9 uncommon thing, in her experience. She knows other people
10 who've done this, and she decided she was going to do this.
11 What's the "this"? The "this" is to invest 500,000 British
12 pounds in Kim Song's business. What's Kim Song's business?
13 It's expanded a little bit. Whereas it used to just be
14 China Railway, now it's PetroChina, another very important
15 company. PetroChina is part of the Chinese government.
16 He's getting more and more established. Kim Song has
17 brought other people -- other business people from China.
18 They have connections to industry in China, they have
19 connections to Chinese Government in China. And this is an
20 opportunity for her. That's way that she put it to you
21 guys, that this is an opportunity. I'm young. At this
22 point, in 1996, maybe she's 26 years old or so. She's not,
23 you know, as young as she was back in 1990 when she first
24 met Kim Song. She's known him now for six years. She's
25 known him a long time.

Summation - Mr. Agnifilo

5314

1 She feels confident doing this. She makes the
2 decision, she told you, on her own -- before she even spoke
3 to her parents, before she even spoke to Chee Khan, that
4 this is a good idea. This is something that I want to do,
5 and I feel confident in it. And she made the decision.

6 She then told her parents, she then told her older
7 brother. Everybody blessed it, and there's a series of
8 other payments made totaling about half a million British
9 pounds. Okay? And all of this now is in Kim Song's
10 business. And she said that Kim Song would send her yearly,
11 sort of, reports of the number of trades that he did and all
12 this stuff, and everything is going fine.

13 She has every reason to believe that this is a
14 sound investment. She has every reason to believe she's
15 weathering the Asian financial crisis with having an
16 investment in China. And she told you exactly how it went,
17 she told you what she knew, she told you what she believed,
18 and she told you why she was confident in it. And her
19 confidence paid off. The investment grew.

20 In 2005, though, things -- two changes take place.
21 The first change is that Roger starts working with
22 Goldman Sachs and starts working with Tim Leissner. And
23 Hwee Bin said that in 2005, while Leissner wasn't a partner
24 yet, it was apparent that he was on the partner track, he
25 was going to be a partner; and he ends up being a partner of

Summation - Mr. Agnifilo

5315

1 Goldman Sachs the next year.

2 She said that in the fall of 2005, that there's a
3 restaurant called Yi Shanghai, she said the name of it was,
4 and there's a lunch at Yi Shanghai. The lunch is Roger,
5 it's Hwee Bin, it's Tim Leissner, it's Judy.

6 And Hwee Bin was very clear that Tim and Judy had
7 their two very young children; one of whom, she said, was a
8 toddler and Leissner, kind of, carried her, and the other of
9 whom was in a pram, you know, a carriage, very young, like a
10 baby.

11 And that's the first time she met -- she meets
12 Leissner and Judy. Never met them before. Now, they're in
13 Hong Kong. Judy lives in Hong Kong. At the moment, in
14 2005, Hwee Bin lives in Hong Kong; Roger and Leissner are
15 working together; and she gets to meet Judy that way. It's
16 followed up by sort of what I'd consider a loose social
17 relationship. Hwee Bin was very clear: I was not friends
18 with Judy, per se. We didn't really hang out all the time,
19 but we had a social relationship and it kind of, you know,
20 stemmed from the gym. They went to the same gym. It
21 stemmed from them meeting for coffee. There's a place
22 called Kobo where they'll go and meet for coffee. They get
23 to know each other in that way.

24 She gets a call from Kim Song and says -- and he
25 says, I have cancer. I have -- I have cancer. I'm going to

Summation - Mr. Agnifilo

5316

1 need a transplant, and you need do something with your
2 money.

3 At this point, it's 48 million in renminbi, which
4 is about 6 million U.S. dollars, okay? The money's in Kim's
5 business in China. And the problem is, it's not easy to get
6 money out of China, as she described. You have to get into
7 a swap or you have to do it some other way.

8 But the money's in China, and she doesn't know
9 quite what to do with the fact that the money is in China.
10 So she talks to a bunch of people in Hong Kong that she
11 knows about this problem: "How am I going to deal with this
12 situation? I have \$6 million in a Chinese investment in
13 China."

14 And one of the people she talks to Judy Chan
15 Leissner, and she's talking to Judy Chan Leissner about
16 this. In the beginning, Judy Chan Leissner says, You know
17 what? I'll hold the money for you. We'll figure out --
18 we'll figure out how to get it back to you, but I'll hold
19 onto it. If you need to get rid of it right away because of
20 Kim's medical condition, I'll hold onto it for you. That's
21 the initial conversation, but that develops into something
22 else.

23 And what Judy Chan Leissner says is, You know, my
24 family owns a number of businesses. There's vineyards,
25 there are things like that. Now, Hwee Bin says that from

Summation - Mr. Agnifilo

5317

1 being in Hong Kong and the circles she was in in Hong Kong,
2 which obviously involved Judy to a certain extent, you kind
3 of knew -- at least she said she kind of knew who Judy's
4 family was. And Judy's family was a prominent family in two
5 important ways: One, from a business perspective and, two,
6 politically. Okay? They were politically important in
7 China, and they were successful from the standpoint of
8 business. She understood they had a number of businesses.
9 They had wastewater treatment plants, they had real estate,
10 and they had a vineyard. They actually had two vineyards.
11 One of them was called Grace Vineyard.

12 And Judy says to Hwee Bin, You can invest
13 alongside my family. So that is a benefit to Hwee Bin in
14 two different ways: One, she doesn't have to worry about
15 getting the money out of China. The money can stay invested
16 in China. She doesn't have to find some way of getting it
17 out of China. And the other way that it is important is
18 that this is yet another good business opportunity for
19 Hwee Bin.

20 And Hwee Bin takes -- Hwee Bin speaks to Judy and
21 basically puts Judy in touch with Kim. Judy and Kim have
22 discussions, and then Judy sends Hwee Bin -- what Hwee Bin
23 described as a two-page acknowledgment. Okay?

24 Now I want to talk about this for a second
25 because -- and the Government didn't discuss this a lot in

Summation - Mr. Agnifilo

5318

1 summation, but I just want to sort of throw this out there.
2 If Hwee Bin was going lie about this -- right? -- if she was
3 just going to make the whole thing up, she would have said
4 this was a contract, this contract drawn up by lawyers that
5 talked about my exchange rate and my return rate. She would
6 have said all of these things. She would have made it
7 something bigger than it was. But she doesn't say that.
8 She said all it really was was an acknowledgment that Judy
9 acknowledged getting about 48 million renminbi, about
10 \$6 million, U.S. dollars, 48 million renminbi from Kim Song
11 and then she had it in Judy's -- in Judy's company.

12 Now, she and Judy continue to have sort of a loose
13 social relationship. She and Leissner and Roger continue to
14 have a loose social relationship, and she had complete
15 confidence in this investment. She was very clear that,
16 unlike Kim, Judy did not send her these yearly statements or
17 things like that; but Judy said that based on the growth of
18 her businesses, her family's businesses, Hwee Bin could
19 expect rates of about 25 percent per year, you know, on an
20 ongoing basis. That's a good -- that's a good rate of
21 return. Hwee Bin recognizes it's a good rate of return, and
22 she basically kept the money in China in Judy's business.

23 Now, one thing that I think sometimes could get
24 lost in the sauce a little bit is this is not the first time
25 we heard in this case about someone having an investment of

Summation - Mr. Agnifilo

5319

1 exactly this nature. And I want to remind you of something
2 that -- Tim Leissner, I'm going to talk about Leissner in a
3 little while, as you can imagine. I am not going to hold
4 him out as a -- gosh, I wrote this myself -- as someone you
5 should believe when he says that something is true. But one
6 thing about Tim Leissner that you probably also could
7 believe is that when it comes to investments, he's no fool.
8 Okay? So I want to take you through a very short snippet of
9 Leissner's testimony, and I'm looking at Page 2224, Line 6;
10 and I'm just going to read it to you. I'm going to try and
11 make it so you don't have to crane your necks, and I'm not
12 going to do a lot of stuff with this swing set.

13 So here is the question:

14 "So the question was: What investment did you
15 have in Grace Vineyard?" This is from Tim Leissner.

16 ANSWER: "It's -- I believe I had funded about
17 3 million, sir..." -- he called me "sir" a lot -- "...back
18 in the early days, maybe 2001 or 2002, something like that,
19 to a real estate project that Judy had and the family had in
20 China. At some point, we swapped." He's using the term
21 "swap." We changed that to a 3 million-dollar -- to -- that
22 to -- that \$3 million that was in the real estate project
23 into a stake in Grace Vineyard. I can't tell you that I
24 remember what kind of percentage I got, or we got.
25 Certainly Judy ended up with, I think, about half of Grace

Summation - Mr. Agnifilo

5320

1 Vineyard at some point."

2 Okay. This is Leissner. So before Hwee Bin ever
3 made an investment in Grace Vineyard, the Government's
4 cooperator had an investment in Grace Vineyard.

5 And then he goes on to say the following -- this
6 is now Page 2245.

7 QUESTION: "The investment, you said you had an
8 investment in Grace Vineyard, right?"

9 ANSWER: "When I described it, it was the family
10 at the time. It wasn't me personally, *per se*, but it was
11 the family. So it was really Judy holding it."

12 QUESTION: "Right. Because you couldn't hold it
13 in your name?"

14 ANSWER: "That's right."

15 QUESTION: "Because it -- it's a business in
16 Mainland China?"

17 ANSWER: "That's correct."

18 Okay. So what Hwee Bin did is nothing different
19 than what Leissner had already done, and the reason it's
20 relevant is because to the extent that Hwee Bin says it's
21 not uncommon to do this, here it is being done by another
22 person that you've all met in this case. So that's --
23 that's how common it is. Leissner did it, he says, in 2001,
24 2002. Hwee Bin does the same thing in 2005. There's
25 nothing all that novel about it. There's nothing all that

Summation - Mr. Agnifilo

5321

1 suspicious about it. There's nothing all that unusual about
2 it. It seems to be somewhat typical, just from what we've
3 seen in this case alone.

4 Now, one thing that I want to draw your attention
5 to, since we're on top of Grace Vineyard. There are a
6 number of things -- and we're going go through all of
7 them -- that make the four payments to Silken
8 Waters/Victoria Square completely different than every other
9 payment in the case. Okay? The Government -- when the
10 Government had their face charts up there and they said, you
11 know, you expect -- the Defense expects you to believe that
12 the way Roger was treated was different than everybody else.
13 And the answer is, there's certain objective things that I'm
14 going point out for you that make the four payments to
15 Silken Waters/Victoria Square completely different --
16 completely different than the other payments in the case.
17 And the first thing that I'm going to talk to you -- and I'm
18 only talking about this one thing now because I'm talking
19 specifically about Grace Vineyard, is that every one of the
20 Silken payments were Victoria Square payments and none --
21 none of the other payments in the case start with an email
22 from Judy Leissner at her Grace Vineyard address. It's a
23 little thing, but it's not a little thing. And so what I'm
24 going to show you -- and this is one of the few times we're
25 going to use our screen today. This is Government

Summation - Mr. Agnifilo

5322

1 Exhibit 210-01, Page 169.

2 The whole point of this, is that top -- that top
3 line, the line that we have highlighted. Judy Leissner,
4 Grace Vineyard -- I'm sorry, jleissner@grace-vineyard..com.
5 Okay. The payments that go to Silken and to Victoria Square
6 start with an email from this email address and none,
7 zero -- zero of the other payments do.

8 So let me show you another one. This is -- this
9 next one is Government Exhibit 2297. The same thing.

10 Let me show you GX 210-01, Page 120. This one's
11 from 2013. Same thing.

12 One last one. 210-01, Page 122. Same thing.
13 Okay?

14 Seems like a little thing. It's not a little
15 thing. It one of the things -- I'm going to go through a
16 whole laundry list of other things that make the four
17 payments to Silken Waters and Victoria Square different,
18 markedly different than the others in the case, because as
19 we know -- as we know, Tim Leissner and Judy Leissner use
20 the Capital Place account for a number of things. A lot of
21 what they used it for was to make payments, make what seemed
22 to be illicit payments, to make bribe payments, whatever
23 they may be. Those payments have different attributes, have
24 different qualities. They're or done differently than the
25 four payments that we are saying are absolutely legitimate

Summation - Mr. Agnifilo

5323

1 payments of a debt, and this is the first distinction that I
2 want to make in that regard.

3 A couple of other things. When the Government was
4 summing up, they discussed why was Leissner involved at all
5 in -- in -- in the payments -- the 2013 payments to Hwee Bin
6 and her family. And the reason is -- and you'll remember
7 this from the evidence. There was an issue with the bank
8 account information. It was incorrect. It was just the
9 wrong account name, it was the wrong account number.

10 Judy Chan Leissner's -- they were married at the
11 time, and he wasn't married to anyone else at that time,
12 2012, I don't think, relies on her Goldman Sach's husband to
13 try to solve the problem about the incorrect information in
14 the account, and that's the only reason he's involved.
15 Otherwise, he's not involved.

16 Now, the truth is Leissner and Judy -- you know,
17 they're husband and wife during this period. They have some
18 overlap in terms of what they're doing, but the important
19 thing is when you see the payments that end up going to
20 Hwee Bin and her family, the Silken -- the Silken and
21 Victoria payments, they always start from a Grace Vineyard
22 email. And why? Why? I don't know how Judy does her
23 accounting at Grace Vineyard, but she has to capture that
24 payment somehow. That payment, if it's coming out of Grace
25 Vineyard, there has to be some way of capturing that payment

Summation - Mr. Agnifilo

5324

1 and making it something that her accountant at Grace
2 Vineyard can say, oh, this is -- this is an outgoing payment
3 from Grace Vineyard. So the way she does it, apparently, is
4 she actually uses the Grace Vineyard address to send the
5 email so that she could give it to her accountant to say,
6 Look, this is a Grace Vineyard payment.

7 And that's the case. That's the case, also, with
8 the -- with the email that the Government showed you in its
9 summation where it says, you know, "for Roger." There's one
10 that says "for Roger." It's an email from Judy to herself.
11 Why would she do that? Well, if you look more closely, it's
12 an email correspondence between Judy and herself, between
13 the Grace Vineyard email address and her personal email
14 address. Again, because -- in terms of accounting, Judy has
15 to capture this payment on Grace Vineyard's accounting, and
16 this is the way she does it. So it's actually evidence, I
17 submit to you, that this is a Grace Vineyard debt. The
18 reason it's coming from a Grace Vineyard email, is because
19 it's a Grace Vineyard debt that Judy is paying back to
20 Hwee Bin.

21 The other thing the Government talked about in its
22 submission today is there's a June 5th email where Roger is
23 getting bank information on June 5th, and they're saying,
24 well, look, that's evidence that this money's for Roger, not
25 for Hwee Bin and her family. But remember what's going on

Summation - Mr. Agnifilo

5325

1 June the 5th. Hwee Bin has a child June 3rd, okay?
2 Hwee Bin has Victoria on June 3rd, 2012, and Hwee Bin told
3 you, didn't get into a lot of detail, it was a -- a
4 pregnancy and delivery that had complications, okay? That's
5 what she said. That was her testimony. So here we are two
6 days after she gives birth, and the email is going to Roger,
7 not to Hwee Bin. Why? Because Hwee Bin had a baby two days
8 earlier. So it's not the significant piece of evidence the
9 Government had you believe. It's makes all the sense in the
10 world, given the timing.

11 We're going to get back to some of the finances
12 here in a minute, but I want to run through the period
13 between 2011 and about 2018. Now, Judy sends initially
14 \$26 million, says that she is going to send \$26 million.
15 And so there's -- there's conversation between Hwee Bin,
16 Chee Khan, the parents, Fanny Khng, and Evelyn Smith, Fanny
17 and Evelyn being the two people from the bank, from UBS.
18 And there's a meeting, apparently, at Hwee Bin's home. Now,
19 why is it at Hwee Bin's home? Because the parents are
20 living there a lot of time. So Chee Khan and Hwee Bin and
21 the parents are all at Hwee Bin's home and Fanny Khng and
22 Evelyn Teah come to the house.

23 Now, Hwee Bin took you through that one document.
24 I think it's Government Exhibit 3035-A. She said, I've
25 never seen this before. No one asked me to sign it. I

Summation - Mr. Agnifilo

5326

1 didn't sign it. My mother didn't sign it. Nobody's signed
2 it.

3 It's basically an internal UBS document. And if
4 you look through that one paragraph that we've all looked at
5 many, many times, you know what's on it. Okay? And what I
6 submit is on there are things that are essentially good for
7 Fanny Khng. Let me tell you what I mean. All right? Fanny
8 works at UBS. There's going to be a review process.
9 They're expecting \$26 million. The \$26 million doesn't come
10 all in one traunch, as you know. There's \$17.5 million
11 first, and then there's, you know, a lesser amount of money,
12 and then there's not any more money until 2013. But Fanny
13 Khng, I submit to you, writes everything that's in that
14 statement, and everything in that statement is good for
15 Fanny Khng. It's not necessarily true. It's not
16 necessarily right. It's not necessarily what anybody told
17 her.

18 Because Hwee Bin was as clear as a bell. She got
19 on this witness stand -- and keep in mind, in this equation,
20 one source of information is a sworn witness subject to
21 cross-examination, and the other witness is Fanny Khng.
22 She's not a witness. She's not here. You don't know why
23 she wrote down what she wrote. We have no idea what she was
24 thinking. We have no idea who she is. She's not sworn.
25 She didn't come here. The FBI interviewed her, as we

Summation - Mr. Agnifilo

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1 know -- my mistake, did not interview her. My mistake. Did
2 not interview her, as we know, and -- nor did the FBI
3 interview Evelyn Teah. Okay? So we don't have a lot of
4 insight into that, and that's important.

5 But what Hwee Bin came here and testified to and
6 subjected herself to cross-examination about is, I told you
7 UBS the money was coming from China. I was very clear. I
8 told them that, everybody there told them that, because
9 that's where the money was coming from.

10 Now, why did UBS not write that the money was
11 coming from China? I have no idea. I have no idea and
12 neither do you, because Fanny Khng certainly has never taken
13 the witness stand and been subjected to cross-examination to
14 explain, Why did I write what I wrote? You don't know.
15 She's not a witness at this trial. The only witness at this
16 trial testified that she told UBS the money was coming from
17 China.

18 Now, is there some reason that a bank in Singapore
19 doesn't want to write, The money's coming from China? I
20 don't know. There's no evidence of that in the case. Is
21 there some reason that a bank in Singapore doesn't want to
22 say that there was an investment in China? Well, there's no
23 evidence about that in the case. I don't know. But that's
24 why you can't trust that one way or the other. We don't
25 know why Fanny Khng wrote that, but what she wrote

1 instead -- and keep in mind what UBS is. UBS is a Swiss
2 bank. Okay? We know that. Hwee Bin testified to that.
3 UBS is a Swiss bank. If you look through that little
4 paragraph, there's references to other Swiss banks. There's
5 Credit Suisse. Fanny Khng talks about Credit Suisse. She
6 says specifically that Hwee's been chosen -- Hwee's been
7 chosen -- here UBS over Credit Suisse. And then she
8 mentions another -- it's not a small thing -- another large
9 Swiss bank, BSI. Kevin Swampillai told you that BSI was one
10 of the ten largest banks in Switzerland. It's not a small
11 bank. It's not a small, insignificant bank. And, perhaps,
12 it is easier, it's less controversial, it's less subject to
13 scrutiny for a Swiss bank to say, Money is coming from
14 another Swiss bank. It might be as simple as that. Maybe
15 that's why she wrote it down, but we don't know because she
16 didn't come here to testify, so we can't ask her. But at
17 the end of the day, what we do know is in that little
18 statement there, there's references to three Swiss banks:
19 UBS, Credit Suisse, and BSI. Is it a coincidence that BSI
20 also plays a role in this case? Sometimes it's just a
21 coincidence. Sometimes that's what it is. But BSI is not a
22 small, insignificant bank, as Kevin Swampillai told you.

23 Now, the other thing that I want to go through --
24 and I'm not to go through it in tremendous detail because I
25 think you just heard about a lot of this, is one thing I

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1 want you to remember about Hwee Bin, is I think she
2 expressed a great command behind all of her decisions, her
3 financial decisions. Why did you create this company? Why
4 did you do this? Why did you do that? She had answers for
5 all of it. She was cross-examined on much of it. She had
6 answers for all of it. And this bit about -- about the
7 destroying mail, she had no desire to destroy mail. She
8 didn't want the mail held by this Portcullis Group. She
9 wanted the mail held by the bank. If you remember the
10 actual emails and if you remember the actual phone call,
11 what she wants to know, why aren't you -- why -- I know you.
12 I know UBS. I know you people. Why aren't you holding the
13 mail? Because Portcullis is holding the mail, and I have to
14 pay them, for one, and she -- we've been told that she
15 didn't like paying them and that she found a company that
16 was cheaper than Portcullis and, two, I don't know where my
17 mail is because I don't know who these Portcullis are. So
18 she's not destroying anything because she's hiding
19 something. She doesn't want the pay Portcullis to hold her
20 mail and if someone was going to hold her mail, she'd rather
21 have it be UBS. Those were the questions she was asking.
22 So there's no nefarious intent here for Hwee to -- I'm
23 sorry, let me -- for Hwee Bin to want to destroy -- there's
24 just no evidence of that whatsoever.

25 The other thing the Government said, I think, two

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1 or three times in their summation that she was impersonating
2 her mother. I mean, come on. You know, this is -- we all
3 take care of our own parents. If our parents are lucky --
4 her parents are lucky. They have children who can help them
5 in their old age. And when you help them with their bank
6 accounts and when they live with you and you help them with
7 their finances, you're not impersonating them. That's not
8 what happened. This is Hwee Bin being a good, educated
9 daughter. She's a lawyer. She's smart. She's
10 sophisticated. It makes all the sense in the world that she
11 would step in and help her parents with their finances.
12 That's all it is. No one is impersonating anybody. No one
13 is hiding behind their mother. That's just silly, and
14 that's inconsistent, I submit, to what you all see in your
15 lives, the lives of your friends, the lives of your family
16 where people take care of their parents in every way, living
17 with them, financially, and every other important way as
18 they grow older.

19 One of the things that Hwee Bin was very clear
20 about is that in 2018, Hwee Bin starts talking to the
21 Malaysian police. Okay? These are the police in Malaysia.
22 She said she went down a lot. I don't know if she said 20,
23 30 times. She went down without a lawyer. All right? The
24 Government asked, Well, aren't you a lawyer? She's a
25 corporate lawyer. She's not a even a practicing lawyer.

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1 She's not a criminal defense lawyer. She is not a criminal
2 practitioner. She goes down alone because she has nothing
3 to fear. Now, why are the Malaysian police interested in
4 Hwee Bin? It's very clear. Now, we've never walked away
5 from this fact a day in our lives during this trial. There
6 is no question that, in fact, 1MDB money trickled down,
7 trickled down, trickled down and went to Capital Place and
8 went into these accounts. We never said anything different
9 than that, and we admitted that in our opening statement.
10 So it makes all the sense in the world that the Malaysian
11 police would want to speak to Hwee Bin. But who do they
12 want to talk to? They want to talk to Hwee Bin. They don't
13 want to speak to Roger. Roger spoke to them early, early
14 on, 2015, or whatever. In 2018, who are they talking to?
15 They're talking to Hwee Bin. Why? Because Hwee Bin has
16 control of the money and the Malaysian police obviously want
17 to know what's going on. And Hwee Bin testified to this,
18 and this is a very important part of the trial evidence and
19 of her testimony. She said that she had conversations with
20 the Malaysian police about getting these records from Judy.
21 Okay? And there's going to be -- there's going to be a
22 two-page acknowledgment, okay, from 2005 where Judy says: I
23 got 48 million renminbi from Tim. And then there's going to
24 be other things. There's going to be bank records. There's
25 going to be accounting. There's going to be some objective

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1 evidence in China, okay, of this money. All right?

2 So Judy asks the Malaysian police, can -- Hwee Bin
3 asks the Malaysian police, can I speak to Judy? Can I speak
4 to Tim? And the Malaysian police said, yeah, because she
5 asked permission, okay? And then she tries to reach Judy.
6 Judy's giving her the cold shoulder, as she testified to.
7 And she has conversations with Tim. And she had several
8 conversations with Tim, according to her testimony, about
9 trying to get these documents, okay? And at no time, she
10 testified, did Tim say, you know, wait. You know there's no
11 documents because he came up with a cover story in 2016.
12 You know, that's not testimony. You know there's no
13 documents because, you know, you know where that money is.
14 That's not what Tim says, according to Hwee Bin's testimony.
15 Tim said, yeah, I'll see what I can do. You know, but
16 nothing happened. I mean, nothing happened. Tim doesn't
17 produce any documents. He never gives any documents. You
18 know, he doesn't give them over. And so Hwee Bin continues
19 to deal with the Malaysian police without the benefit of
20 these documents.

21 Now, what Wee Bin doesn't know is literally on the
22 other side of the world, at the moment, Tim Leissner is
23 speaking with the FBI. It's now June of 2018. We heard
24 about circumstances surrounding Leissner's arrest, if you
25 want to call it that, where he gets to keep his briefcase

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1 and he gets to use his phone. I don't know what kind of
2 arrest that is, but that was the particular arrest that Tim
3 Leissner experienced. He had documents, he said. He had a
4 folder in his Tumi briefcase when he was arrested. That was
5 his word, I was arrested. No one looked in it. That was
6 his testimony. No one looked in his briefcase, no one
7 looked for his documents. He testified that two days later,
8 he was using his telephone. Never spent the night in jail,
9 spent the night at a hotel, spent another night at a hotel,
10 spent another night at a hotel, never saw the inside of a
11 prison; and he hopes that he never will. But on the other
12 side of the world from Malaysia, you had Tim Leissner
13 speaking to the FBI.

14 Now, the Government didn't even touch on this in
15 their summation, and they can talk about anything they want,
16 just like I can talk about anything I want that deals with
17 the evidence. And you certainly are free to know this, the
18 things that we each talk about and the things that we don't
19 talk about.

20 So let's talk about Tim Leissner for a second.
21 It's been awhile since he testified so let's talk about him.
22 And here's the important thing -- and I'm not going to
23 belabor this because you all heard him, just like I did.
24 Okay? I suppose, under the right circumstances, any of us
25 could lie, right? Something's really on the line, there's a

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1 matter of your kids, your parents, your brother, your
2 sister, anybody could lie, right? But not like him. He's,
3 I submit to you, one of a kind. He's rare. There aren't a
4 lot of Tim Leissners in the world, and he just happens to be
5 the centerpiece of the Government's case in this one.

6 Now, he lies to everyone. He lies to his wives,
7 he lies to his kids, he lies about his kids. He will lie,
8 if it suits his interests, that his own children were in a
9 car accident. Think about that. He's lying in a fake email
10 correspondence because he created a fake email address for
11 his then-wife, Judy Chan Leissner, to have bogus
12 communications with Kimora Lee Simmons; and because it
13 served Leissner's interests, Leissner actually lied that his
14 children with Judy were in a car accident and were injured.
15 He goes that far.

16 But he goes further than that. He creates the
17 fake email address, and he keeps this going for years.
18 This -- this is lying on -- on a rare level. This is not
19 everyday lying, to want to manipulate -- and that's what it
20 is -- to want to control, to want to dominate a situation
21 between your then-wife, Judy Chan Leissner, and your
22 soon-to-be second wife while also married to the first one,
23 Kimora Lee Simmons, to create a bogus email address so that
24 Kimora Lee Simmons thinks that she's friends with Tim's
25 ex-wife, Judy. She's not his ex-wife, they're still

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1 married.

2 But in addition to that -- and Leissner even shows
3 Kimora Lee Simmons a bogus divorce certificate to further
4 lie to her. And think for a second, what must lead up to
5 that? What must Kimora be saying? You know, I think you're
6 still married. I think you're married. I think you're --
7 no, no, no. No, no, no, no. Look, here's a document.
8 Look, here's a document. I'm divorced. All right?

9 It's a lifetime of lies. When you're married to
10 two women at the same time and neither of them know it,
11 every time you leave the house, it's a lie. Every time you
12 say where you're going, it's a lie. Every time where you
13 say where you've been, it's a lie. It's not a lie here,
14 it's not a lie there, it's a lifetime of lying.

15 And here's the important part for how, I think,
16 you have to evaluate his testimony in this case: It's a
17 decision he intelligently and willfully made to say, you
18 know what? I am going to do this because I want to do it.
19 I want to be married to her because I want the trust. I
20 want her to trust me the way a wife trusts a husband. And I
21 want to be married to her because I want her to trust me the
22 way a wife trusts a husband. You don't get a lot of trust
23 when you're just a boyfriend. And you have five
24 girlfriends? Nobody trusts you. You can't even really lie
25 then because nobody trusts you. But you're a husband now,

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1 she trusts me the way a wife trusts a husband, and so does
2 she. And you know what? I can lie my way through it. I
3 got this covered. I'm so good at lying, I'm not afraid of
4 this. I can lie my way right through this. They're not
5 going to know what's coming, because I'm that good of a
6 liar.

7 And the fact that he thinks he can pull it off and
8 then he does for a long time, resorting to fake emails to do
9 so, is one in a million.

10 (Continued on the next page.)
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25

1 (Continuing.)

2 MR. AGNIFILO: Maybe even more than a million.

3 So this is who Tim Leissner is. This is who Tim
4 Leissner was before he ever darkened the doorstep of the FBI.
5 That's who he was.

6 So does he change? Now, let's remember Tim
7 Leissner's testimony. Sat right there, told you: I changed.
8 I changed. I lied a lot in my life, but I'm not lying
9 anymore. I have certainly told my share of lies, but my lying
10 has stopped.

11 He's probably told that to a thousand people, and
12 now he's told it to a thousand and 18 people because he's told
13 it to you. And it's always a lie. It's a lie every time he
14 says it. It's been a lie. It was a lie the first time he
15 said it and it was a lie the one thousandth time he said it.
16 But that's what he says. That's his shtick. That's a liars
17 last resort. Yeah, I've lied a lot, but I stopped, and I'm
18 sure a lot of people believe him in their lives. I'm sure a
19 lot of people believe him. Afseneh. Remember Afseneh? He's
20 married to Afseneh when he's married to Judy. Direct
21 testimony. It was on direct examination. I got divorced from
22 Afseneh. She consented. Okay? Cross-examination. You went
23 to the Dominican Republic behind her back. Think about who he
24 is. He marries -- he's married to Afseneh, he marries Judy
25 without telling Afseneh, and then he runs to the Dominican

Summations - Mr. Agnifilo

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1 Republic to get divorced behind Afseneh's back. That is rare.
2 That is not normal every day lying. That is lying on a
3 different level, okay? So when you guys are trying to figure
4 out, did he really change his ways? Is he really different
5 now? He has said that his whole life, and he didn't change
6 his ways, and he didn't change his ways now, and he didn't
7 change his ways when he went to the FBI because he admitted to
8 you -- like -- that's, like, a good thing? I admitted that I
9 went to the FBI and lied, so now you should believe me. What
10 did he lie about? He told you what he lied about. He falsely
11 implicated Roger, the man on trial. He told you: I falsely
12 implicated Roger. I said that Roger did things that I knew
13 Roger didn't do, and that's terrible.

14 You know who he also falsely implicated because he
15 told you? The mother of his children. Judy. He goes into
16 the FBI -- I mean, think about this. Think about this. You
17 go into the FBI, you say that the -- your ex-wife, the mother
18 of your children engaged in criminal activity that you know
19 she didn't engage in to make her situation worse, to make her
20 more guilty, to make her falsely guilty in the eyes of the
21 FBI, you finish, and you walk out? Are you kidding me? And
22 then you come back and you do it again? It wasn't one time.
23 We took him through it. He did it over and over and over. It
24 wasn't until something happened that stopped him. And you
25 know what it was? It was emails and text messages. And so he

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1 never stopped lying, ever, and he didn't stop lying in this
2 courtroom, and I will take you through some of that too. He
3 started lying smart. What he realized is, huh, I can't lie
4 about stuff if there might be an email because then I'll get
5 caught, so I'm not going to do that anymore, because that's
6 how he got caught on the Roger and Hwee Bin lies -- I'm sorry,
7 on the Roger and Judy lies. He didn't have some crisis of
8 conscience and say, oh, wow, I have to stop lying. He just
9 got caught because he lied about things where there are
10 emails, and so all he did is he started getting smart. He
11 lied smart. And by the time he came to this courtroom, he had
12 been lying to some of the people sitting at this table for
13 over three and a half years, and he lied to you during his
14 testimony.

15 Now, one thing I want to say, everyone keeps -- the
16 Government keeps saying, you have to scrutinize Tim Leissner's
17 testimony, you have to scrutinize Tim Leissner's testimony.
18 Does really anyone seem like they're really scrutinizing Tim
19 Leissner's testimony? They're just letting him testify. He's
20 just getting up here and he's testifying. And the truth is,
21 there is no other evidence that connects Roger Ng with guilt,
22 okay? Now, once you accept -- once you accept that Roger is a
23 Goldman Sachs banker and he's going to work on the deals -- so
24 you are going to see emails of him working on deals because
25 he's a Goldman Sachs banker. You are going to see him going

Denise Parisi, RPR, CRF
Official Court Reporter

Summations - Mr. Agnifilo

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1 places because he's a Goldman Sachs banker. You are going to
2 see him talking to Andy Tai, and you're going to see him
3 talking to his boss. Let's not lose sight of the fact for a
4 second, Tim Leissner is that man's boss. It's his boss, okay.
5 You are going to see him talking to Leissner. You are going
6 to see him talking to all these different people. Why?
7 Because he's a Goldman Sachs banker, so that doesn't mean
8 anything. That's not corroboration, you know?

9 And I've told you from the first minute we all spoke
10 that \$35 million came from Capital Place into Silken Waters
11 and Victoria Square, so once you take those two things out,
12 what does Leissner give you? Leissner gives you intent.
13 Roger and I discussed this. Roger and I had this, you know,
14 dirty conversation with Low. Roger and I knew that everybody
15 was getting paid. That's what you have Leissner doing. And
16 you know what? There's no -- zero, zero, zero, zero
17 corroboration of that. Not a single thing. The real blood
18 and guts of this case, you know, that it's a bribery case and
19 that Roger is charged with bribery and money laundering,
20 there's no -- zero evidence independent of Leissner for that
21 at all. There's not a dirty email. There's not a bad email.
22 Roger is not on a bad email. There's not a bad text message,
23 and we know there are bad text messages in this case because
24 you saw them. You saw Leissner's text messages with Low where
25 Low is basically treating Leissner like he's -- I don't know.

Denise Parisi, RPR, CRR
Official Court Reporter

Summations - Mr. Agnifilo

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1 I mean, it's -- it's -- Leissner doesn't seem like he's a
2 Goldman Sachs partner and the head of Asia at Goldman Sachs
3 with the way Low is treating him. Did you pay so-and-so? Did
4 you pay so-and-so? You know, paying, paying, paying. You
5 know, Leissner and his text messages with Low are as
6 implicating evidence as you're going to see anywhere unless
7 you're actually a baker. If you are a baker and you actually
8 do make cakes, then I guess they're explainable. But since no
9 one here makes case, these are clearly conversations about
10 bribes. And they exist. They're here in the real world. You
11 saw them. One after the next after the next. You see
12 Leissner and Low talking about, you know, let's try and -- we
13 have Madam Cakes. What's that? Madam Cakes is a reference to
14 the prime minister's wife and payments. This is a good cake
15 deal. You know, it's one thing after the next. So these
16 things do exist. They do exist, because you have seen them.
17 They just don't exist with Roger, okay? Because Roger is not
18 involved. So there's no emails -- zero; there's no bad text
19 messages -- zero; and, as we discussed, there are no phone
20 calls. There's no phone calls.

21 You heard from the evidence that at the direction of
22 the FBI, Leissner made phone calls. Leissner called Jho Low.
23 Leissner called Hwee Bin twice. Leissner never called Roger.
24 Now, Leissner offered you an explanation. I submit the
25 explanation is a lie, and I'm going to tell you exactly why.

Denise Parisi, RPR, CRR
Official Court Reporter

Summations - Mr. Agnifilo

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1 He says: I spoke to the FBI about it, and Low -- I didn't
2 call Roger because we were concerned his phone was
3 compromised.

4 Okay. There are two people in every conversation.
5 There's Leissner, and there's an FBI agent. Where is the FBI
6 agent? If that crime -- if that conversation took place --
7 there's no evidence of it. They know how to call FBI agents.
8 They called a bunch of them. There's no evidence of it. Do
9 you know why? Because Leissner is making that up. Leissner
10 is lying about that. He's lying because he can't admit -- for
11 whatever reason, he has a hard time admitting the truth about
12 a lot of things, and he's lying about that, but what you do
13 know, you know there's no calls -- no calls with Roger.

14 And Hwee Bin told you that at one point when she was
15 on a video call with Leissner, she showed Leissner that Roger
16 was with her. Nothing. No conversations with Roger. No
17 evidence. No evidence. Aside from Leissner, no evidence that
18 Roger did anything wrong.

19 All right. Let's talk about 2009 to 2012 and the
20 role of Jho Low.

21 Here's the important part, okay? In 2009, there's
22 no doubt -- and I think I told you this in my opening -- that
23 Roger is instrumental in bringing -- trying to bring Jho Low
24 into the bank, okay? No question. This is three years before
25 all the mishegoss is going to start with Project Magnolia in

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1 2012. So there's nothing going on in 2009, Low is not nearly
2 the controversial figure he would end up being, and Roger is
3 absolutely trying to bring him into the bank.

4 Now, keep in mind something -- this was all brought
5 out in Leissner's testimony -- I asked Leissner: Do you
6 remember getting an email at the end of 2008, okay, that
7 TIA -- the state of Terengganu was going to start a sovereign
8 wealth fund -- the Terengganu Investment Authority. He says
9 yes, and he got an email and Roger got an email from someone
10 else at Goldman Sachs, and the email basically said there's
11 this opportunity -- try and chase this down, okay? So the
12 point is, Roger is not choosing Low. Roger is not going out
13 to win over Low to try and, you know, bring in Low's business.
14 Roger is doing his job. He gets an email that TIA -- that
15 Terengganu is starting this sovereign wealth fund. Run it
16 down. Go run it down. So he does what he's told, and he goes
17 to run it down. And he meets with Low. He tries to bring Low
18 into the bank. And the point is, every single time Roger
19 meets with Low, he logs it into the system the way he's
20 supposed to. He's not hiding Low. If he meets with Low --
21 there's a calendar entry, "meeting with Low." You know, there
22 are all these different reports that Goldman Sachs does. When
23 you are in investment banking -- when you are in investment
24 banking, it's important to keep track of the people outside of
25 Goldman who you are meeting, and he does it right every single

Denise Parisi, RPR, CRR
Official Court Reporter

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5344

1 time. Every time he meets with Low, "I'm meeting with Low."
2 I have a calendar entry, "I'm meeting with Low." He never
3 says it's anybody else. He never says it's Mohamed Badawy
4 Husseiny, for instance. If he's meeting with Low, he says
5 he's meeting with Low each and every time.

6 So he's doing nothing other than his job. He's
7 going out trying to win this business, and he's doing it the
8 way that Goldman Sachs wants him to do it to keep track of
9 these things so that they know who he's seeing.

10 There are different other projects. There's the TIA
11 project where Goldman Sachs got paid a million dollars. If
12 you remember, TIA, kind of, beat them on the fee. It was
13 supposed to be \$2 million, but it was only a million dollars.
14 So this is not like a super -- I mean, a million dollars is a
15 lot of money to everybody in the world probably other than
16 Goldman Sachs. You know, it's not a huge Goldman Sachs deal,
17 and Roger is running down on all these things. Roger refers
18 to Low by name in the emails. His business Jynwell, whatever
19 -- whatever the company is -- he says that every single time.

20 Now, I want to talk for a second about something
21 that probably has come up time and time again, and that's the
22 red flag summary, and I don't know if you guys can all see it.
23 It's pretty -- it's pretty far away.

24 Can you guys all see that in the back? Or is it --
25 no? All right. You know what I'll do? I'm going to read

Summations - Mr. Agnifilo

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1 parts of it to you.

2 Okay. The part that's most relevant is seven. So
3 let's look at the whole thing. So, first, it's called a red
4 flag summary. So this is not a positive -- this is not a
5 positive part of the PowerPoint for Jho Low. This is a red
6 flag summary, and the red flag summary -- there's only one
7 person's name that you are going to find in this red flag
8 summary, and that's Roger, and this is March of 2010.

9 So let's look at the whole thing. Number 7 is the
10 important part. Negative feedback from Asia-based GS
11 employees, okay? When briefed on the details of the client's
12 claims -- stop right there.

13 Obviously, Low is saying certain things to the bank:
14 I'm Jho Low. Here's my deal. Here's where I get my money
15 from. Here's how much money I have. Here's how I've made my
16 money. Whatever those claims are.

17 -- comma, Roger Ng advised caution in accepting the
18 claims at face value.

19 Okay. He doesn't know. He doesn't know for sure.
20 He doesn't know Low like that. He doesn't really know Low at
21 all other than someone who he's met, you know, a dozen times,
22 20 times, whatever it is. He doesn't know him. And what I
23 mean by "know him," he doesn't know, like, where his money
24 really comes from. He doesn't know how much money he has.
25 Does he have 10 million, you know, 100 million, 300 million?

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1 He doesn't know those kinds of things -- things that Goldman
2 Sachs would want to know, but he advises caution. Be
3 cautious. Be cautious in accepting these claims at face
4 value.

5 Then there's something that's not necessarily unique
6 to Low. It says: Roger accepted that some Malaysian families
7 construct opaque structures to ensure discretion. He did not
8 find the individual's claims to be credible and recommended
9 requiring very specific verification of all claims.

10 Here he goes to the next level. What he's saying
11 here is I -- I, myself -- I don't find the individual's claims
12 to be credible. What else can he say? What more can he do
13 than to say, you're asking what I believe? I don't really
14 believe him. I don't know, but I don't really believe those
15 claims are credible. What else can he say? I mean, what
16 more -- without -- without knowing, what more can he say?

17 Now, keep in mind one thing -- and I think -- I
18 can't remember which witness testified to this -- this
19 information all flows one way. Meaning that Roger is
20 essentially like a witness here. You know what I'm saying?
21 Who's Jho Low? He's this, he's this, he's this, he's this.
22 That information doesn't flow back from BIG or from the
23 compliance divisions back to Roger. Roger doesn't get the
24 benefit of all their research. He's just giving information.

25 Then the last sentence. We've talked about this a

1 lot: Roger had not heard of the individual apart from meeting
2 him on a single occasion when he was present at a meeting with
3 the king of Malaysia.

4 Let me offer an explanation for this, okay? Goldman
5 is trying to figure out, does Low really know the king? How
6 well does Low know the king? So that's why the king is in
7 that sentence because Roger did meet Low one time with the
8 king. He's not saying he only met Low one time ever. He's
9 saying: I met Low one time with the king. Why is that the
10 only sensible interpretation of this? Because Roger is on
11 record 20 times by this point. This is on record in a way
12 that -- absolutely accessible to compliance. Compliance can
13 check this. He knows compliance can check this. He knows he
14 met Low 20 times. He's not going to say I only met him once.
15 Why would he say that? How would he know the answers to the
16 other questions? It doesn't make sense.

17 Now for him to say, "I don't believe him, I only met
18 him once, but I don't believe him," he's not saying that.
19 He's saying: I met him once with the king, because the
20 king -- they want to know who Low knows. Who is Low connected
21 to. We know he has some connection to the king, and a logical
22 question would be, what is his connection to the king, and
23 Roger says: I met him once with the king. That's what that
24 is and nothing more than that. It makes no sense for Roger to
25 tank low -- which is basically what he's doing -- to tank low

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1 in the other parts of this report and say I don't believe him,
2 and then say I only met him once, when it's readily provable
3 he didn't just meet him once. It's ridiculous to say he only
4 met him once. He met him 20 times by this point, and every
5 single one of the 20 times is logged properly into the Goldman
6 Sachs system exactly the way he's supposed to do it.

7 So this whole thing is a nothing burger. He's not
8 lying. This is Roger telling the truth. This is Roger being
9 helpful to Goldman Sachs. This is Roger telling the people at
10 Goldman Sachs who have to make the decision on Low information
11 they actually need that would be useful to them to say, be
12 careful, check him out. If you are asking me if I believe
13 him, I don't, okay? That's what this says and nothing more.

14 And this goes to very high levels of compliance --
15 it goes to someone in Court Golumbic, it goes to heads of
16 different compliance divisions -- so Roger is on record.
17 There's no other single person on the business side of things
18 that is on record as being critical of Low. You don't see --
19 Leissner is not on this. Leissner is not on the red flag
20 summary. No one else is on the red flag summary. One person.
21 Goldman Sachs has 40,000 people. One person is on record by
22 name saying, I don't believe him. Check him out. Check him
23 out hard. It's Roger. That's the only one.

24 Next year, 2011, Kazakh Gold -- the Government
25 talked about this in their summation as well. If you

1 remember, Kazakh Gold Jynwell -- Low's company, Jynwell, was
2 in a consortium with other companies looking to buy this
3 company, and there's confusion as to what the role that
4 Jynwell had was, because remember something -- and this is
5 very important -- remember something that Stephen O'Flaherty
6 testified to? Stephen O'Flaherty said: Low wasn't completely
7 toxic to us. We didn't have a "no Low under any
8 circumstances" policy. We could handle Low if he had a minor
9 role and if there were no ostensible payments to him, okay?
10 So that was O'Flaherty's testimony.

11 Now, here, with Kazakh Gold. Everyone is trying to
12 find out what is Low's role in this deal, and the one who gets
13 right to it who gives the information that's helpful is,
14 again, Roger. And he says, quote, Jynwell is driving the
15 fund-raising process.

16 We know that's an important quote because Gilbert
17 Chan quotes Roger -- quotes -- takes Roger's words, "Jynwell
18 is driving the fund-raising process," bumps that up to Stephen
19 O'Flaherty, and they end up not going forward with the deal,
20 and they don't go forward with the deal specifically because
21 of what Roger said. No one else. Leissner didn't say it.
22 Toby Watson didn't say it. Andy Tai didn't say it. None of
23 the other 40,000 employees of Goldman Sachs said it. He said
24 it. He said it in 2010. He said it again in 2011. And that
25 is him being helpful. That is him being accurate. That is

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1 him being a good Goldman Sachs employee.

2 And let me just, at this point, note for the record,
3 there is not a single Goldman Sachs employee -- I want to
4 touch on this again -- there's not a single one who came in
5 here and said a remotely bad thing about Roger Ng. Not one.
6 Not one. They could find all the compliance people -- most of
7 the compliance people never even heard of him. Never even
8 heard of him. Do you know Roger Ng? Nope. Stephen
9 O'Flaherty. Did you ever speak to him? Nope. Have a phone
10 call with him? Nope. Have a meeting with him? Nope. I
11 mean, they can't even find a compliance person who knows him
12 because he didn't -- he didn't do anything wrong in Goldman
13 Sachs eyes. The Government is making this stuff up. They're
14 making this up to try to convince you that he must -- there
15 must be something. You know, if he can use personal emails,
16 if he's going to do these things that he's not supposed to do,
17 you know, he must have a proclivity to commit international
18 bribery of world leaders. That's their argument. But if you
19 are talking about actual people from Goldman Sachs where he
20 worked in compliance, not one has a remotely bad thing to say
21 about him.

22 All right. January 2012. January 2012 is when
23 things change, okay? It's when things change between Low and
24 Roger, and it's when things really change between Low and
25 Leissner, okay? Up until 2012 -- and 2012 is when the crimes

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Official Court Reporter

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1 start, and that's important, because before then, yeah, Roger
2 knows Low -- Roger goes to Vegas and declares that he has
3 \$14,000 in currency. You know, not everybody does that. He
4 does it because he's a boy scout. You know, he says, yep, I
5 have \$14,000 in foreign currency, and he declares it, and he
6 gambles in Vegas. You know, big deal. Big deal. You know,
7 it's not -- it's not a crime; it doesn't mean that you are
8 going to bribe world leaders.

9 So let's get to 2012.

10 In 2012, Leissner hits 2012 like a man on fire, all
11 right? Now, Roger is out of the office in the beginning of
12 2012 because he had a bike accident, okay? He had a serious
13 bike accident. His best friend -- you know, Tim Leissner
14 didn't seem to remember it that well, but Andy Tai remembered
15 that he was out of the office -- and what do you see Leissner
16 doing? Leissner is talking with Lazar. Leissner is
17 interviewing with Lazard in the early part of January 2012,
18 and Leissner is trying to put a deal together.

19 See, this is different than what happened in 2009
20 with TIA where Leissner and Roger got an email, hey, go run
21 down TIA, because this is Leissner putting a deal together;
22 and he's putting a deal together with Ananda Krishnan, who is
23 selling a power company; and with 1MDB, who is going to one
24 day buy Ananda Krishnan's power company; and Leissner is
25 having a bunch of meetings, many of them without Roger.

1 January 12th, for instance -- we go back to TEEMS
2 and all these things we went through the trial. January 12th.
3 Leissner has three meetings on January 12th. He meets with
4 Shahrol, okay, who is the CEO of 1MDB; he meets with -- he
5 meets with Ananda Krishnan, who is his long-term customer --
6 client, rather -- and I think Hwee Bin even said part of the
7 reason she had faith in the investment is that Leissner was
8 very close to Ananda Krishnan, and people in Malaysia viewed
9 him as his, like, you know, informal godson or something like
10 that.

11 So he's close to Krishnan. He's been close to
12 Krishnan since 2002. He worked with Krishnan for the Maxis
13 IPO and a second IPO that Krishnan's companies have done. So
14 by the time of 2012, he's been close to Krishnan for
15 ten years. So he meets with Shahrol, the CEO of 1MDB; with
16 Krishnan; and with Nazir Razak, the prime minister's brother.
17 This is just Leissner, and this is just one day. This is
18 January 12th. One day he has three meetings. January 18th,
19 Leissner meets with Low, okay? So now he's met with Low. And
20 then on January 19th he meets with Krishnan again.

21 Okay. So in this seven-day period, he has five
22 important meetings. Why? Because he met with the buyer of
23 1MDB; he met with the seller, Ananda Krishnan; and he met with
24 Low, who is sort of the person in the middle who is going to
25 make all of this happen. And so what does he do after having

1 these five meetings in seven days? He calls someone named
2 Jeffrey Rosen at Lazard. He doesn't call Goldman. Goldman
3 knows nothing about it yet. As of January 19th, Goldman
4 doesn't even know this business opportunity exists because
5 Leissner is shopping this to Lazard because Leissner told you
6 he's thinking about leaving Goldman and going to Lazard, so
7 he's shopping this to Lazard.

8 Then something happens that I submit to you is very,
9 very significant. In January, Leissner goes to London.
10 Doesn't breathe a word of this on his direct testimony. Not a
11 word. During his direct testimony, he's talking about a
12 meeting in London -- the February meeting -- a meeting in
13 London. He goes to London in January, and you know what he
14 does when he -- and who is in London? Who do we know who has
15 an apartment in London? Low has an apartment in London.
16 After he leaves London, he sends Jeffrey Rosen an email. And
17 he says: 1MDB wants to meet right away. Goes to London.
18 Right after the London meeting, 1MDB wants to meet right away.
19 And then he says to Jeffrey Rosen in the email: The prime
20 minister wants to use Lazard for this deal.

21 And I asked him -- don't you remember -- I asked
22 him, I said, was that true? He says no. I said, you just
23 made that up? He said, yeah, he just made it up. The prime
24 minister didn't say to meet Lazard, but this is Leissner being
25 Leissner. Leissner can't help himself. You know, he wants to

1 juice it up. He wants to juice it up a little more. So he
2 says: Hey, Lazard, the prime minister wants you guys.

3 It's not true. It's a lie. But what is true is
4 that Leissner is working this thing hard for Lazard to do --
5 Lazard to do -- before it ever gets to Goldman. For whatever
6 reason, it doesn't work out with Lazard. I think -- I asked
7 Leissner on cross: You know, did something happen that caused
8 you to realize Lazard is not right for this? He said that's
9 basically right. And then he goes to Goldman later in January
10 and says: We need to do an emergency conflict check to do
11 this BIG deal.

12 The other thing that's interesting is while he's
13 talking to Lazard about this deal, he's also talking about
14 Sheikh Mansour, so where would he start getting Sheikh Mansour
15 from? He's getting it from Low. So this is Leissner and Low.
16 This is January. This is not February. This is January. A
17 meeting that Leissner would have you believe he has no
18 recollection of at all.

19 Do you remember, I said, can you tell us one thing?
20 Tell us one thing that you did in London in January. I don't
21 remember a thing.

22 (Continued on the following page.)
23
24
25

1 MR. AGNIFILO: He goes to London in January, comes
2 out of that meeting a house on fire saying 1MDB wants to do
3 this deal right away, start talking about Sheikh Mansour. He
4 can't tell you one thing. He can't tell you one thing that
5 he does in London in January. That's not an accident. He
6 uses I don't recall strategically. It's very effective.

7 Because if you want someone to concentrate on only
8 one of three things, like let's say for instance you had three
9 meetings in London. Let's say for instance you had one in
10 January, you had one in February and you had one in April, but
11 you don't want anyone to concentrate on the one in January and
12 April, what you can do -- and it's remarkably effective -- is
13 "I don't remember anything about January, I don't remember
14 anything about April."

15 But that February meeting, let me tell you what Jho
16 Low's doorknob was like; let me tell you what his front door
17 was like; let me tell you about where people were sitting.
18 I'll talk about February, because all I want you to guys to
19 focus on is February. But I don't remember anything about
20 January, nothing. You can't get a single detail out of me.

21 That is a lie. Of course he remembers. Of course
22 he remembers.

23 Do you remember there are were times I asked him,
24 just talk about this deal, and he would talk about things that
25 happened ten years ago in incredible detail, here are the

1 people involved in the deal, here is what they did, here is
2 what they said. He has a great command over detail.

3 You should not accept that he doesn't remember a
4 single thing about his trip to London in January because it's
5 a lie. It's a strategic lie. He doesn't want you to know
6 what happened there.

7 But we know. We know. He comes out of that meeting
8 talking about I spoke with 1MDB, and talking about Sheikh
9 Mansour.

10 Let's get to the London meeting that he does
11 remember, the February London meeting.

12 Your Honor, we can do the break now or we can keep
13 going?

14 THE COURT: Later.

15 MR. AGNIFILO: The February London meeting. This
16 was a meeting London in February, there is no question. We
17 never denied that for a second. At this meeting was Roger,
18 Low, Leissner, Jasmine Loo and Terence Geh. Not Nick Faisal,
19 Terence Geh. Let's get to the important part of the London
20 meeting.

21 Leissner says that at this London meeting there was
22 this talk of Low's, I'm going to bribe all these world leaders
23 and not only am I going to tell you about it, I'm going to
24 make a chart. I'm going to give you six reasons why none
25 of that happened.

1 Reason number one, common sense. Jho Low really is
2 going to fill a room with people and say, welcome everyone to
3 One Stratosphere. I want to tell you guys who I'm going to
4 bribe. Because it's really important to me, Jho Low, that you
5 all know precisely who I'm going to bribe. So I'm going to
6 tell each and every one of you who I'm going to bribe. Not
7 only am I going to tell you, because I heard somewhere that
8 people's recollections are better when you tell them something
9 and then show them a visual, and had I been better at the tech
10 maybe I'd do a PowerPoint to you but I can't do a PowerPoint
11 so I'll make a chart. So sit back all of you who don't really
12 need to know any of this information, and listen to all of the
13 people I'll one day bribe. Because there is some of the world
14 leaders of your countries so you should know who I'm going to
15 bribe.

16 He then takes them through chapter and verse. He
17 takes out a piece of paper, as Leissner says, he writes the
18 Malaysian people on the left side, all the Malaysians that Low
19 is going to bribe on the left side. He goes down the list.
20 All the people from Abu Dhabi who is he's going to bribe on
21 the right side. That's ridiculous. That's the last thing Jho
22 Low did.

23 Why, why does Roger, Tim, all these other people
24 need to know who Jho Low is going to bribe? And not them,
25 it's February. The bribes don't start until the fall, until

1 the summer and the fall. Why in the world would Jho Low do
2 that? He didn't do it. And he didn't do it because it's
3 preposterous. Jho Low is many things; he's not stupid.

4 And he would not basically share with the room to
5 make an international bribery announcement. Thank you for all
6 to coming to London to hear my international bribery
7 announcement. Here are all the people I'm going to bribe
8 because you should know.

9 Next thing, you know he's not going to tell Leissner
10 because Leissner said something very important in his
11 testimony. Leissner said that even while Leissner was paying
12 the bribes, even while he was paying the bribes, he didn't
13 know who he was bribing. Do you remember that part of the
14 testimony? So if Leissner is not told -- Leissner says send
15 this money to Spring Elite at this bank. Leissner is not told
16 who that is. And Leissner told us specifically, Low didn't
17 tell me, Low didn't tell me who I was actually bribing. I'm
18 the one sending the money and I don't know who I'm bribing.

19 If that's the case, why is Low going to tell
20 Leissner eight months ahead of time here who is all who were'
21 going to bribe. He wouldn't. He doesn't want Leissner to
22 know who he's bribing. If he wanted Leissner to know who he
23 is bribing, he would have told Leissner at the very moment
24 that Leissner was bribing that person. But he didn't. And he
25 didn't because he doesn't want Leissner to know.

1 Roger. Does he want Roger to know? I submit to you
2 he does not want Roger to know. Because of two things, we put
3 them both up here.

4 The first is what we talked about before, Roger,
5 Roger told on -- put it this way, Roger told on Low. Low
6 knows that. Low knows that Roger said things about Low to
7 compliance that Low doesn't like.

8 How do we know that Low knows? Because in 2014 Low
9 says that he knows. Low says, I think Roger screwed up and
10 maybe the Swiss chap too. Low then says, both now no longer
11 at GS, so you should say they simply submitted crap. Leissner
12 said, yes, they definitely did, but I will get there.
13 Leissner talks about once he's chairman things will change.

14 What does Low know? Low knows in 2014 that Roger is
15 to blame. Roger is to blame for Low not being a private
16 wealth client in 2010. So why in God's green earth of all the
17 people that Low can have in his apartment when he's going to
18 talk about bribing everybody in Abu Dhabi and Malaysia would
19 he have Roger there? The same guy who sunk his private wealth
20 management client application two years earlier. It makes no
21 sense. It didn't happen.

22 Also, Leissner can't keep straight who he was
23 meeting. He says that Nik Faisal at the meeting. Nik Faisal
24 is not at the meeting. Terence Geh is at the meeting. He has
25 it wrong. Is it a minor thing? Is it a major thing? He

1 swears to you these are the people at the meeting. He has the
2 people at the meeting incorrect.

3 Next thing, the first time he mentions the chart is
4 April 21, 2021. International world leader bribery chart that
5 Low makes. April 21, 2021 is six weeks before the third
6 anniversary of Leissner cooperating. He's been a cooperator
7 almost three years, three full years, three full years, six
8 weeks short of three years. Bribery chart, for the first
9 time, it's ridiculous.

10 The other thing is that it's rendered impossible by
11 other evidence. I'm not going to read the whole thing to you,
12 but, if you remember Leissner testifies that after the meeting
13 they all go for dinner in Chinatown. And they go in vans and
14 they take their time and then they walk back. And then they
15 go to Leissner's apartment and then Roger goes off to Roger's
16 apartment.

17 None of that happened. We know that none of that
18 happened because Roger checks out of his hotel at 6:17 p.m.,
19 Roger is out of his hotel. Low is talking about dinner, he's
20 at the end of the -- Leissner is talking about dinner at the
21 end of the evening. He's certainly leading you to believe
22 that they are not leaving London that night. He goes to his
23 hotel. Leissner doesn't mention running off for a flight.
24 Leissner doesn't mention I need to get a taxi and rush to
25 London Heathrow to fly back to Asia to take an international

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1 flight. Leissner doesn't mention Roger is running off for a
2 flight. It's the exact opposite.

3 It's this meandering they are talking about how
4 happy they are that they are going to get all of this money.
5 It's preposterous. It didn't happen. It's false. He's
6 making the whole thing up.

7 There was no talk about bribery at the London
8 meeting. There was no chart of bribery at the London meeting.
9 He and Roger didn't walk around London after dinner talking
10 about how happy we are.

11 Remember his testimony, he almost revels in this, in
12 the story. Roger was just so happy that he was going to
13 finally get paid. None of it happened. It's dead false.
14 It's a dead false lie. It's not a misrecollection. He
15 doesn't think it might have happened. He's just flat out
16 lying.

17 Abu Dhabi. Leissner goes to Abu Dhabi nine times.
18 The Government put their faces around the world chart only had
19 the first meeting, the March 3rd and 4th meeting. Leissner
20 goes nine times to Abu Dhabi. Roger goes two times, the same
21 number of times as Andy Tai. Roger goes two times. Some
22 other people go two, more, I don't know how many times Vella.
23 Leissner goes nine times. Nine times. He.

24 Doesn't have a great command, Leissner, about what
25 happened each individual time. Except he does say that Roger

1 was present when Low gave Leissner an envelope that had in it
2 a letter from the Prime Minister of Malaysia that Leissner had
3 to deliver to -- depends when you ask -- Sheikh Mansour or
4 Khadem Al Qubaisi, his story changes. He says that Roger was
5 there, and that Jasmine Loo was there.

6 Now, that could not be the March 3rd meeting. Roger
7 was there March 3rd and Roger wasn't there again until
8 April 10. So could it have been either of those two meetings?
9 I submit to you, it cannot be.

10 The reason it cannot be is because Government's
11 Exhibit 2252 is -- we'll put it on the Elmo. From Deal
12 Rainman to Mohamed Hussein. It says from Deal Rainman, who
13 we understand to be Low: Please provide name and contact
14 via BBM for delivery person. Thank you. Then it says
15 March 2012 letter to his Highness Sheikh Mansour Al Nayan from
16 His Excellency Prime Minister of Malaysia PNC.

17 Then the letter itself, which you've seen a few
18 times. It's the letter that we looked at. The point is, this
19 is from March 7. So March 7 there is an e-mail from Low to
20 Mohamed Al-Hussein saying please provide the name and contact
21 by BBM for the delivery person. This letter is about to be
22 delivered from a delivery person. It doesn't say from
23 Leissner. We wouldn't need Leissner's contact information for
24 a delivery person.

25 This couldn't have happened on the third because

1 there would be no reason if the letter was delivered on the
2 third to have an e-mail dated March 7 to have it delivered by
3 delivery person.

4 And we know it can't be April 10 because by then the
5 letter has been delivered. And by then Leissner is already
6 lying to Goldman Sachs and to Stephen O'Flaherty that he
7 hand-delivered the letter to Sheikh Mansour. So what
8 happened?

9 Here is the reason it's important. It's not
10 important because you're ever going to be able to figure it
11 out. It's important because you're never going to figure it
12 out. If you had can't figure this out, you can't trust
13 Leissner on anything.

14 So I want to use this example as something that
15 while Leissner testified about it, you will have no confidence
16 whatsoever as to what happened as a matter of fact. Let's go
17 through the history of this.

18 Leissner tells people at Goldman Sachs I
19 hand-delivered the letter to Sheikh Mansour himself. That's
20 what he tells Stephen O'Flaherty. He tells other people
21 that's his story. I hand-delivered it to Sheikh Mansour
22 himself. He gets up at trial and said that didn't happen; I
23 lied about that part. I actually hand-delivered the letter to
24 Khadem Al-Qubaisi at his house. I went to his house. How did
25 you get there? I got driven by Mohamed Al-Hussein. Now

1 Mohamed Al-Hussein is somehow Qubaisi's Lyft driver or
2 something, but that's how he says. What kind of car? I have
3 no idea. Tell us one thing about the front of Qubaisi's
4 house? No.

5 You guys can size this up any way you would like.
6 But I submit to you, that Leissner was not at Qubaisi's house.
7 He had no good answers. He didn't know if it was near water
8 or not near water. He didn't know the first thing about it.
9 He's making the whole thing up.

10 At one point in the middle of his description he
11 says Jasmine Loo might have been there. After saying that me
12 and Khadem Qubaisi and Mohamed Al-Husseiny went in car, just
13 the three of us, then he decides maybe Jasmine Loo is there.
14 The point to all of this is, if you can't trust him, on
15 something that's a pretty, discreet, simple straightforward
16 event, like whether or not you went to someone's house, you
17 can't trust him on anything.

18 And since you have no idea, I submit, you can't
19 possibly know. You don't know. You know he didn't deliver to
20 Sheikh Mansour because that's what he says now.

21 Did he bring it to Qubaisi? Did he bring it to
22 Husseiny? Did he do it at all?

23 Now we see an e-mail where Low is saying give it to
24 a delivery person. You can't trust him on that. You can't
25 trust him on anything.

1 Run out to Los Angeles. There is a meeting in Los
2 Angeles on March 25. There is not a lot to say about it. The
3 Government pointed it out. It was supposed to be in New York
4 then changed to L.A. The important part about it is that
5 Roger is at the part of that in L.A. He does not go to New
6 York to meet Ananda Krishnan. Krishnan I think at one point
7 is supposed to go to New York then changed to L.A.; but
8 Krishnan never left New York. So the important meeting
9 between Low and Leissner and Krishnan is in New York. Roger
10 is not there.

11 April 1st, 2012. Leissner is in London. TEEMS says
12 he's in London. Leissner said he's having a meeting with
13 Hussein in London. Here we are again, another meeting less
14 than a week after London -- yes, less than a week after L.A.
15 and he's in London with Hussein?

16 What can you tell us about that meeting? I don't
17 remember anything about it. Nothing. This is right in the
18 middle of Magnolia.

19 Now we have a second meeting in London, this one
20 with Hussein, and Leissner tells you he can't remember a
21 single thing about it? It doesn't make any sense. It's not
22 believable. It's not believable because he's not being honest
23 with you. He is taking refuge in "I don't remember," because
24 if he doesn't remember there is nothing else you can do.
25 There is nothing else you can do. It's a brick wall. It is

1 the brick wall of feigned lack of recollection.

2 I submit to you, he does remember. I submit to you,
3 he's there for a reason. And I submit to you, that he's
4 telling you he doesn't remember for a reason. We just don't
5 know what it is. Because he's not being honest about it.

6 Two meetings in London, he doesn't remember either
7 one.

8 April 4. April 4 is the Capital committee meeting.
9 The reason April 4 is important is that the Government is
10 saying that Tim Leissner lied at the meeting and that it's
11 Roger's fault. That Leissner, their witness, the guy getting
12 the deal -- that we'll talk about in a little while --
13 Leissner, their witness, lied at the meeting. And it's
14 Roger's fault. Because Roger didn't say anything.

15 What did Leissner lie about? And Stephen O'Flaherty
16 is just as clear as a bell on the question he himself asked,
17 which is the only question that he says he himself asked. So
18 let's read that part of Stephen O'Flaherty's testimony. It's
19 page 3067 at line ten.

20 Question: Do you recall with any specificity what
21 you asked?

22 Answer: I asked about why he was present at the
23 meeting with Sheikh Mansour. I made the point that the head
24 of our Middle East office had never managed to meet Sheikh
25 Mansour and asked what role Jho Low is playing there.

1 Question: And how did Leissner respond, if in fact
2 he responded at all?

3 Answer: He was irritated. Said Jho Low wasn't
4 present at the meeting. That Jho Low had come to Abu Dhabi
5 with a letter from the Prime Minister of Malaysia Razak, which
6 he handed to Tim Leissner but wasn't present at the meeting
7 that then followed with Sheikh Mansour.

8 Okay. That's it. He does not talk about anything
9 general about is Jho Low involved; is Jho Low there; is there
10 someone called Jho Low; is Jho Low involved in the deal. He
11 asks this question and he's the one asking it.

12 Now, would Roger have any idea what a truthful
13 answer to this question is? He has no idea.

14 There is no suggestion that Roger was with Leissner
15 in any meeting with Sheikh Mansour. There probably was never
16 a meeting between Leissner and Sheikh Mansour. So there is no
17 way that Roger is going to know the difference one way or the
18 other.

19 The entire premise of this whole thing that we've
20 come back to in this trial over and over and over is utterly
21 faulting. Because Roger isn't there. This is something
22 Leissner is doing on his own. We'll never know the truth as
23 to what he's doing. The one person who certainly doesn't know
24 the truth is Roger. He has no idea. This is something that
25 Leissner is doing on his own.

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1 So to the extent that anyone comes up here and tells
2 you somehow there was a general question asked about is Low
3 involved in the deal and Leissner lied about it, that wasn't
4 the question. O'Flaherty tells you clear as a bell what the
5 question was.

6 And it's also worth noting this, Stephen O'Flaherty
7 worked at MI6 British intelligence for 20 years. He's like
8 James Bond's boss. And Low lies to him and his staff, as he
9 points out, and says he met Sheikh Mansour. And Stephen
10 O'Flaherty gets on the witness stand, as you sit here today do
11 you think that Low met Sheikh Mansour. He says yes. And
12 Leissner doesn't think he's a good liar? Leissner is a great
13 liar. And if there is any doubt -- keep in mind that ten
14 years after the lie, that someone who worked at MI6 for 20
15 years still thinks it's true. He still thinks it's true,
16 that's how good a liar Tim Leissner is.

17 THE COURT: Counsel we'll take your break.

18 MR. AGNIFILO: Very good.

19 THE COURT: Please be back at five minutes after.

20 You still can't discuss the case.

21 (Jury exits the courtroom.)

22 THE COURT: I'll see the parties in a few minutes.

23 MS. SMITH: Your Honor --

24 THE COURT: Please be seated.

25 MS. SMITH: I didn't want to object during, but we

1 do have a concern that Mr. Agnifilo asked the jury to
2 speculate what Tim Leissner did or did not say on a phone call
3 with Ms. Lim in 2018. That was specifically not allowed in
4 evidence. He said something along the lines -- I have to look
5 at transcript -- that Mr. Leissner didn't say something about
6 the investment isn't real. So he invited speculation about
7 what Leissner said or didn't say because there was an absence
8 of testimony. The reason there was an absence of testimony is
9 the content was kept out.

10 I wanted to flag that and we're going to think about
11 if we're going to ask for a limiting instruction as a result.

12 THE COURT: Okay.

13 MS. SMITH: Thank you.

14 (Brief recess.)

15 (Jury enters the courtroom.)

16 THE COURT: Please be seated everyone.

17 Please proceed, Mr. Agnifilo.

18 MR. AGNIFILO: Thank you, your Honor.

19 Finishing up on Project Magnolia. On April 16,
20 2012, Roger and Andy Tai are in Asia. And Andy Tai e-mails to
21 Leissner and says he hears that a number of people are going
22 to Abu Dhabi to help on the deal, and he asked Leissner: Do
23 you want me and Roger to come? And Leissner responds: No
24 need, chief. He doesn't want them there.

25 Then oddly, Leissner puts both Andy Tai and Roger in

1 his TEEMS as being in Abu Dhabi even though they are not
2 there.

3 He then e-mails, quote, "Somewhere I saw a
4 contribution or guarantee fee no longer contemplated. Please
5 delete." This goes back to -- the deal was sort of changing
6 overtime. Sometimes there was this contemplation of a
7 guarantee fee and options and sometimes not. And it changes
8 overtime. Here we see Leissner on April 16 saying that that
9 is no longer contemplated and to take it out of the deal.

10 April 21 -- we're going to be very efficient for the
11 next 54 minutes -- there is a meeting in the Taste of
12 Paradise. This is the one that Kevin Swampilai testified
13 about. There is a couple of important takeaways. We're not
14 going to get into all of it.

15 Swampilai said that there was an e-mail that he and
16 others from the bank received from Lisa Tan, who was their
17 compliance person who said basically, listen, you can go to
18 this meeting and you can listen, but you can't talk, you can't
19 share any information because we represent Aabar, that's our
20 client. And Aabar hasn't given us any authorization to speak
21 at this meeting.

22 Here is the important takeaway, if we go back,
23 Swampilai tells us that Low had a relationship with Yak Yew
24 Chee, another banker at BSI. He said that even goes back as
25 far as Low's father, that Low's father had a relationship with

1 Yak Yew Chee. And when Yak Yew Chee was in Coutts, managed
2 the dad's money. So this goes way back.

3 So the deals are -- I took Leissner through this,
4 I'll do it quickly: Project Friendship, where Mubadala, which
5 is a sovereign, and Jynwel, which is Low's company, are going
6 to be buying a Four Seasons resort in Abu Dhabi.

7 Something called Project Midori. Midori involves
8 buying land in Iskandar.

9 There is Project X-Men, which is Jynwel and SRC,
10 which is like the 1MDB subsidiary and Aabar buying a Brazilian
11 mining company Vale.

12 There is JBIC, which is 1MDB trying to raise
13 \$2 billion from a guarantee with the Japanese bank.

14 There is La Perla, where Jynwel and Aabar are going
15 to buy the fashion company La Perla.

16 There is Coastal, where Jynwel and Aabar are going
17 to buy a Canadian gas exploration company called Coastal.

18 There is China Investment Corp. We see this in the
19 chat, CIC.

20 And keep in mind the conversation that Swampilai
21 said that he and Low were having. Low is very interested in
22 these fiduciary funds. These ways of basically you can kind
23 of structure things where it's in the name of another entity.
24 And he was very also concerned in learning about bank secrecy
25 and how all that worked. What we see in this meeting is

1 Low -- again, this is a very important theme -- I submit to
2 you that what you see in this case as a whole is that Low, for
3 Low, everything is on a need-to-know basis. He's not going to
4 give out gratuitous information.

5 He's not going to tell Leissner anything unless
6 Leissner needs to know. He's not going to tell Roger anything
7 because Roger is not involved. But what we see from this
8 meeting is that Low is using bank secrecy, using Singapore
9 bank secrecy, using Swiss bank secrecy to keep everything
10 segmented so the BSI people can't talk, literally can't talk,
11 because of bank secrecy about what they know about Aabar and
12 the money coming to Aabar. They can't discuss that with
13 Goldman because they would be violating bank secrecy. But who
14 knows? Low knows.

15 So Low knows everything. Low knows that at the end
16 of the day he's going to steal over \$500 million out of 1MDB
17 right after Project Magnolia closes and send that money to the
18 Aabar SPV account at BSI. But there is no indication that
19 anyone at Goldman knows that; certainly Leissner didn't
20 testify that he knew that. There is no indication that Roger
21 knew that.

22 That's because Low is making sure that Low knows
23 everything. Low knows what 1MDB is going to do. Low knows
24 what Aabar going to do. Low knows what BSI is going to do.
25 And he keeps everyone segmented out.

1 The takeaway from this April 21 meeting at Taste of
2 Paradise is that Aabar doesn't give any information. As you
3 know, Swampilai said Leissner was -- they were expecting
4 Leissner to give a presentation. Leissner didn't really say
5 much of anything, kind of basically said BSI, you're on your
6 own. If you have an issue with your due diligence and your
7 compliance, you guys do it. We're not going to help with you
8 that. He says that Roger never said a word.

9 So the take away from this is that -- and there is
10 no indication other than Leissner's say-so that Roger and
11 Leissner and Low ever met. Certainly Swampilai doesn't know
12 anything like that, doesn't say anything like that.

13 This is one of the many times we have to take
14 Leissner's word, which is something that I submit you really
15 can't do.

16 At the end of the day what you see is that there is
17 an agreement reached between 1MDB and Aabar basically for
18 money to go from 1MDB to Aabar; seemingly, for all intents and
19 purposes, without anyone from Goldman Sachs knowing. The only
20 one that knows that is Low.

21 That's how Low pulls off the core theft, that he
22 does it kind of in secret with Yak Yew Chee.

23 I think it's worth noting that not even Swampilai,
24 and I asked him the question, he said he had no idea. There
25 is no reason to really question that answer. Not even

1 Swampilai knew anything about how the money was going to go
2 from 1MDB to Aabar, and Swampilai was working at BSI. That's
3 because Low kept it very close. He kept it very tight.
4 That's the only way he could pull this off.

5 He didn't get to be Jho Low, for good, bad and
6 indifferent, by being loose with his mouth. He kept
7 information very tight. And not even all the bankers at BSI
8 knew what Low was up to. Seemingly Yak Yew Chee knew, at
9 least that seems to be the case. Swampilai testified that he
10 didn't know. No reason to not believe it.

11 And there is no reason to think that anybody outside
12 of the bank would have known what Low had in mind.

13 Maximus. Very little to say on Maximus. Roger had
14 almost nothing to do with Maximus. I think the Government put
15 out information that he was asked to come, he came to the
16 dinner after it closed. I'm not sure what kind of evidence
17 that is that he worked on the deal. There is not a lot of
18 e-mail traffic with Roger on the deal. He didn't have much to
19 do with the deal.

20 He had even less to do with Project Catalyze, which
21 is the one after.

22 Now, I submit to you that on the day that Low sends
23 \$35 million to Capital Place, that date being June 11, that's
24 when the money leaves, that was basically Leissner signing on
25 for what ends up being a new job with Low. Certainly Low

1 would have noticed that Leissner was helpful with getting
2 Project Magnolia to the finish line, but the evidence shows
3 that Low has ideas for Leissner to work for him on an ongoing
4 basis. So let's breakdown very, very quickly the different
5 things that Leissner is doing for Low for that money.

6 In 2012 and early 2013, there are eight separate
7 deals that Leissner works on with Low. Most of them are
8 Goldman Sachs deals. Being more to the point, that Low is not
9 out of the bank for all purposes.

10 So the deals are -- I took Leissner through this,
11 I'll do it quickly: Project Friendship, where Mubadala, which
12 is a sovereign, and Jynwel, which is Low's company, are going
13 to be buying a Four Seasons resort in Abu Dhabi. Something
14 Project Midori. Midori involves buying land in Iskandar.

15 There is Project X-Men, which is Jynwel and SRC,
16 which is like the 1MDB subsidiary and Aabar buying a Brazilian
17 mining company Vale.

18 There is JBIC, which is 1MDB trying to raise
19 \$2 billion from a guarantee with the Japanese bank.

20 There is La Perla, where Jynwel and Aabar are going
21 to buy the fashion company La Perla.

22 There is Coastal, where Jynwel and Aabar are going
23 to buy a Canadian gas exploration company called Coastal.

24 There is China Investment Corp. We see this in the
25 chat, CIC. Leissner explained -- this is interesting I want

1 to focus on this a little more than the others -- this would
2 be a \$10 billion raise for 1MDB with a guarantee being
3 provided by a bank from China, Bank CIC, the China Investment
4 Corp. What Low says of this, is this is a good cookie deal.
5 In the chat he says: This is a good cookie deal.

6 What he's saying is this is a big money deal. We
7 can pay bribes out of this deal. One of the things that I
8 think is an interesting -- I don't know if it's here or
9 there -- but it seems like what Leissner and Low are doing
10 after 2012, and Roger is nowhere to be seen for any of this,
11 and Leissner said that, all these different deals that
12 Leissner is working on with Low after June 2012, after Low
13 sent Leissner the \$35 million, all of those deals have nothing
14 to do with Roger. They are all profitable or potentially
15 profitable for Low. And it's Leissner basically using his
16 Goldman Sachs connections and his experience and his wherewith
17 all to try to bring Low into these deals.

18 One of the things that they are trying to do, it
19 seems, always on the look-out to make have extra money to make
20 these cookie deals. I submit to you, part of what Leissner
21 and Low are doing is they have these politicians almost on
22 retainer. It's not necessarily a kickback for this or a
23 kickback for that; it's really just them having them on
24 retainer. Because that's how Low is going to conduct his
25 business. That's how he's going to continue to do what he

1 does. It's the oldest trick in the book, he's greasing all
2 these politicians. But he's not necessarily greasing them in
3 regard to this deal. You help me on this so you get this; you
4 help me, so you get this. He's just greasing them generally.
5 He might need them in the future.

6 Low is a dynamic and corrupt businessman. So he's
7 right, he will need politicians in the future.

8 So what we see in the chats about this China
9 Investment Corp. Deal is that it doesn't end up turning out,
10 they don't raise any money. But Low is trying to use this to
11 raise money basically just to have money to pay the
12 politicians, which is why he called it a cookie deal.

13 The last one is Brazen Sky. I'll talk about it for
14 a minute. Brazen Sky came up during Swampilai's testimony.
15 And basically Brazen Sky is the cover up for the money being
16 syphoned out of 1MDB. If you think about it, 1MDB is a public
17 fund and can be audited, accountants will look at it. They
18 just arranged for \$577 million -- Low and his people -- to
19 come out of 1MDB. Someone is going to notice that. At some
20 point it will be audited and someone will say, wait a minute,
21 where is the \$577 million?

22 What happens with Brazen Sky is that 1MDB owns these
23 two drill ships. I don't know what the drill ships are
24 actually worth, but Leissner arranged through Lazar to get a
25 valuation -- he testified to this -- to get a valuation of the

1 drill ships. But the drill ship valuation didn't come along
2 as they wanted. So now Swampilai testifies that he has a
3 conversation with Terence Geh, and basically it's Swampilai's
4 job to tell KPMG, the 1MDB auditors, that really what is just
5 two drill ships is other assets as well, that it's liquid.
6 It's not just two drill ships, there is cash, there is other
7 liquid assets.

8 Swampilai was clear as a bell, it was a lie. It
9 wasn't true that the only assets that 1MDB had at the time are
10 these two drill ships, which are not liquid, you have to sell
11 the drill ships to get money for the drill ships. So it's all
12 a lie to the auditors.

13 There is a meeting that takes place in June of 2012
14 and Leissner is at the meeting with Low. And Swampilai is
15 there with Yak Yew Chee and some others. And that's the issue
16 of the day.

17 So the point here is that there are certain things
18 that have to be done. It's not that these deals end and you
19 never hear from them again. Theft has fingerprints. Theft is
20 going to be found. And it can be found by the auditors.

21 So the Brazen Sky meeting -- and Roger has nothing
22 to do with Brazen Sky, Roger has nothing do with the other
23 eight deals I went through -- is a way to cover up the fact
24 that 1MDB is missing over half a billion dollars.

25 I want to talk about a quick several-day period in

1 early November 2012.

2 November 1st, Vella, Leissner, Jasmine Loo, Low, and
3 Roger are all in Hong Kong. This is the day that Leissner
4 e-mails to Vella: Please don't tell Roger about our meeting
5 with the friend. Okay.

6 Here is what you're starting to see. Now that we're
7 further along, it's 2012. Roger is just out. Roger is out.
8 Roger was closer to Low in '09, in '10, a little bit in '11,
9 but by 2012 Roger is out. The reason Roger is out in 2012 is
10 because that's when the crime starts. That's really when the
11 crime starts. The person who is very much in in 2012 is
12 Leissner. Leissner and Low are in all these deals.

13 Leissner is getting Low and Mohamed Al-Husseiny to
14 meet with Lloyd Blankfein, the head of Goldman Sachs at the
15 time. Roger is playing no role in that.

16 When you look at what Leissner is doing in 2012,
17 he's doing all these individual deals for Low, the ones I went
18 through, he's getting Low and Al-Husseiny Facetime with the
19 Goldman Sachs chief. Then he starts actually laundering Low's
20 money and making payments.

21 November 2 there is a meeting at the Mandarin
22 Oriental in Hong Kong, Leissner, Dan Swift, Toby Watson, John
23 Dunne, Cyrus Shey, Jasmine, all in the TEEMS. Again, no
24 Roger. This brings us to Low's birthday, November 3rd, 2012.

25 Here is why it matters. It matters first and

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1 foremost because Leissner just flat out lied about it. Roger
2 is not there. Roger is not in Las Vegas on November 3rd. You
3 know that from a host of reasons.

4 You know that because of United States Boarder
5 Protection records that we discussed. You know that through
6 the TEEMS records. You know that Roger was in Singapore in
7 Kuala Lumpur at that time. But Leissner swears he's there.
8 And I want to take you briefly just through Leissner's
9 testimony, because knowing that Roger is not there, I want you
10 to hear in Leissner's words what he testified to.

11 Page 1891, and the question is.

12 Question: You're sure, you're absolutely
13 100 percent positive he was in Las Vegas, Nevada, for sure, at
14 Low's party?

15 Answer: Yes, sir.

16 Question: 100 percent?

17 Answer: As sure as I can be, yes.

18 Question: As sure as you can be of anything?

19 Answer: Yes.

20 Question: Yes?

21 Answer. Yes.

22 Page 1894.

23 Question: But you're telling us sure as you are
24 sure of anything that you saw Roger in Las Vegas?

25 Answer: Yes.

1 Question: And you have specific recollections of
2 things that you saw him do in Las Vegas?

3 Answer: Yes. I remember seeing him in the lobby of
4 the hotel.

5 Page 1895.

6 Question: But you saw Roger there?

7 Answer: Yes.

8 Question: Absolutely positive?

9 Answer: Yes.

10 Question: Did you speak to him?

11 Answer: Yes.

12 Page 1899.

13 Question: Do you remember that you and Roger met in
14 the lobby of the hotel along with Jasmine Loo and Terence Geh?

15 Answer: I believe so, yes.

16 Question: So Terence Geh was there too?

17 Answer: I don't remember him in the lobby but I
18 remember him at the party.

19 Page 1901.

20 Question: Did Roger stay after the party? Did
21 Roger stay at the party after you left?

22 Answer: I believe so. Yes, sir, I remember that.

23 THE COURT: Slow down.

24 Q

25 Question: Did Roger stay after the party? Did

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1 Roger stay after the party after you left?

2 Answer: I believe so, yes. Yes, I remember them.

3 It's all a lie. He's just flat out lying.

4 Here's why it matters. It matters because as

5 Mr. Cohen testified -- the party planning guy -- this was the

6 blow out of all blow outs. This is Low. Low is making money,

7 we all know, because we see it going to his bank account.

8 It's his birthday and this is his big-time birthday bash.

9 The way that Leissner uses false intimacy to get

10 what he wants; Low uses friendship. If you're Low's friend,

11 if you're really in, you're going to be at Low's birthday

12 party on November 3rd in Las Vegas. If you're not really in

13 and you're not Low's friend, you're not there. It's not just

14 a birthday party. It is the defining of event of who is with

15 Low and who is not with Low.

16 How many times did Leissner say to you over and over

17 and over, Roger, Roger was Low's guy. Roger was Low's

18 connection. Roger was the covered banker and had the

19 relationship with Low.

20 Leissner cannot afford for Roger to not be at Low's

21 birthday party, because it cuts against everything he swore to

22 you was true over and over and over.

23 So what does he do? He does what he does every

24 time, he lies. And this is one of those lies you can get

25 caught on. This is like when he lied and it was in an e-mail.

1 When he lied and got caught by a text. He lied and he got
2 caught by U.S. Border Protection records. He lied and he got
3 caught by TEEMS records. But it's a lie. He was as sure, as
4 sure as he is of anything. Remember those words. When you go
5 back into the jury room and you guys get the case, you ask
6 yourself, can I rely on a single thing that Leissner says. He
7 said under oath: I am as sure as I've ever been of anything
8 that he was there. And he is not.

9 One of the important things to remember, and you see
10 this in the evidence, the real co-conspirators are in for the
11 long hall. You see Leissner and you see Jasmine Loo, for
12 instance. You see a chat between the two of them on
13 August 28, 2014. And Jasmine Loo writes: Friend, friend
14 asked for Sheikh Mansour's letter to Najib.

15 She asked Mr. Leissner. Leissner has it.

16 They have conversations about that Leissner is doing
17 a bad job managing Goldman Sachs. And Jasmine Loo is saying,
18 you have to manage Goldman Sachs better. This is part of
19 Leissner's job. This is what Leissner is getting paid for.

20 Low is not just giving Leissner money for no reason.
21 Leissner is earning that money. And part of what Leissner is
22 doing to earn the money is he's supposed to be managing
23 Goldman Sachs. And the problem at the time is that Goldman
24 Sachs is asking questions of 1MDB because 1MDB is not doing
25 what it's supposed to do in regard to its bonds. It's falling

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1 behind in its interest. It's not doing the types of
2 disclosures it's supposed to do about its bonds. Goldman
3 Sachs is noticing. And Goldman Sachs is asking questions.

4 (Continued on next page.)
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1 MR. AGNIFILO (CONTINUING): And here's Jasmine Loo
2 saying to Leissner: Hey, back your people off. You know,
3 Goldman Sachs is asking too many questions, you have to manage
4 these guys. You know, and that is what Leissner is getting.
5 You know, and what you see -- and this is 2014. This is
6 October of 2014. You know, Magnolia closed in May of 2012.
7 This is now a year and a half later and you have Leissner
8 still working hard, still earning his money, you know, and
9 trying to manage Goldman Sachs in addition to doing all the
10 other things for Low.

11 Roger leaves Goldman Sachs in 2014 and Leissner's
12 criminal activity really just kind of goes to another level.
13 I'm not saying it's because Roger left, but that's --
14 temporally that's kind of how it worked. He writes a letter
15 to the chairman of Banque Havilland. I'm not going to belabor
16 this; you guys probably remember this. Low was having a hard
17 time finding a bank that would take him because of all the
18 press and he was thinking about buying a bank, and one of the
19 banks that they were thinking about buying is Banque
20 Havilland. So Leissner uses Goldman Sachs letterhead to write
21 a letter to Banque Havilland basically saying that the Low
22 family has \$1.8 billion in assets, the assets are all clean,
23 Goldman Sachs has done due diligence as to the anti money
24 laundering and antiterrorist funding and there's no concern
25 with either money laundering or antiterrorist funding because

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1 Goldman Sachs had done that research. It's all false. Okay?
2 It's Leissner lying for Low and lying for Low about matters,
3 you know, of consequence when you're talking about things like
4 that.

5 And this is what ends up being Leissner's undoing.
6 This letter that he wrote on Goldman letterhead ends up being
7 found about a year later and he ends up getting fired. But
8 before he's fired, he does something else. He forges the
9 signatures of Hwee Bin's older brother, Chee Khang, Roger's
10 brother-in-law and at the time he's trying to get a loan from
11 a bank called C1 and he's trying to basically leverage his
12 yacht. He's using his yacht to get this loan. And Leissner,
13 on his own, decides it would be a good idea for me to get a
14 lawyer's letter that says all the assets that I have, so he
15 does that. And he signs Chee Khang's name and he signs Chee
16 Khang's name without Chee Khang's knowledge.

17 But if you remember his testimony on this, and it's
18 worth remembering, I asked him: Did you forge Chee Khang's
19 name? And he says: Quite possibly, or something along those
20 lines. He doesn't say yes, he doesn't say no; he says
21 something like possibly. Now, an honest answer to that is
22 yes, I forged his name. If he wanted to be honest with you,
23 that's what he would say. But he does what he always does and
24 he doesn't want to admit it. He can't deny it because it's
25 true, so he says yes, possibly I forged the name of a lawyer,

1 I forged the name of Roger's brother-in-law. The other
2 question I asked him is: Why did Chee Khang send you a
3 million dollars? He didn't remember. I mean, is that
4 believable? It's not believable. It's the same way he
5 doesn't remember being in London. It's the same way he
6 doesn't -- all the times, all the times he said something and
7 I said didn't you say something different to the FBI and shown
8 a report or shown a handwritten page of paper: I don't
9 remember. How many times did he do that? 50? 60? 70? How
10 many times? You said this to the FBI, didn't you? I don't
11 remember. Because "I don't remember" stops the inquiry. It's
12 false because, I submit to you, he does remember. Every
13 single thing that he said he didn't remember to, I submit to
14 you, he very much remembers and it's part of his strategy.
15 And his strategy only works if you let it work. If you see it
16 for what it is, I submit, and what it is is a lie, then it
17 doesn't work. If you see it as, you know, poor guy, he was
18 asked so many questions, he can't remember all of them, then
19 it worked. And it shouldn't work because it's false.

20 Okay. Cover story. Leissner talked about a cover
21 story, that there was a cover story in 2017 -- 2016. That
22 there was a cover story because law enforcement was
23 approaching and Hwee Bin and Roger and Leissner and Master
24 Pang were all together and this cover story was concocted.
25 First of all, Hwee Bin testified. Hwee Bin flew in from

1 Malaysia and she testified, and not a single question was
2 asked of her about the cover story, none. Hwee Bin was asked
3 a lot of questions. She was asked if those were her parents
4 on the lazy river with the yawning gondolier. She was asked
5 if her parents have a different address than Terengganu. A
6 lot of questions, no questions about that. Okay? Because
7 there's nothing to ask about that, because Leissner is making
8 it up yet again. This is just Leissner on his own. Here we
9 had a live witness, she came, she told you what it was, and
10 that is the end of the cover story once and for all.

11 Very quickly, meeting with Low in October of 2017.
12 Leissner and Low are in Hong Kong in 2017 and this is where
13 Low is basically saying: I have hired Chris Christie. Chris
14 Christie is close with President Trump. There are talks,
15 there's settlement talks going on. Low said that he met Jared
16 Kushner in China. Okay? And Low basically says to Leissner:
17 If you stay with me, you know, we're going to settle this.
18 It's not going to be a criminal prosecution. We're going to
19 settle this, you know, if you stay with me. Importantly, you
20 know, Roger is there, they never -- they never had a second
21 one with Roger, Roger is not part of any of these meetings.
22 And, I submit to you, it's significant that Roger isn't there,
23 because they're not worried about Roger. And they're not
24 worried about Roger because they know Roger has nothing to do
25 with this. They know Roger can't provide information against

1 them. They're not worried about Roger being a witness. So at
2 these meetings, at this meeting where we're going to, you
3 know, stick together and going to stick together and get
4 through this, you don't need Roger there. You don't have to
5 have a meeting with Roger there because Leissner knows and Low
6 knows Roger is not a danger. You don't need to bring Roger
7 into the fold because Roger is not involved. So let Roger do
8 whatever it is that Roger does, but we don't need him to be
9 part of the fold because he doesn't know anything, he can't
10 hurt us and he's not part of what we've been doing.

11 Midas, real quick. And I'm really going to finish
12 in 25 minutes. All right. This is now 2016, 2017. Leissner
13 knows that law enforcement is coming closer and he is not
14 going to go down without keeping his 150-, 160-, \$170 million.
15 And so he comes up with an inogenous and diabolical plan. And
16 he creates a number of companies: Khaleesi, Midas
17 Commodities, Midas Commodity Agents, Keyway Pride, and a host
18 of others. And what he basically does is he says -- and this
19 is a fast thing -- he says that a Kuwaiti Shaikh -- okay? A
20 Kuwaiti Shaikh gave him \$165 million, 145 million Euro. And I
21 want to read you his testimony and then kind of like use that
22 as our baseline.

23 It's at page 2291:

24 Question: Now, you said on direct that you said
25 that the money came from a Kuwaiti Shaikh named Shaikh

Summations - Mr. Agnifilo

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1 Al-Sabah, right?

2 Answer: That's correct again.

3 Question: But you know that the money was actually
4 Jho Low's money?

5 Answer: Sir, I don't ever have independent
6 verification of it. However, certain parts of the money were
7 to be disbursed on Jho's directions.

8 Question: Have you ever met Shaikh Al-Sabah?

9 Answer: No.

10 Question: And did you really believe that a Kuwaiti
11 Shaikh that you never met would have these dealings involving
12 145 million Euro with you?

13 Answer: Well, yes, I had my suspicions, of course,
14 and speculation that it would be Jho's money. But when you
15 asked me if it was his, all I can do is speculate as I sit
16 here. Did I believe it? Yes. Yes, possibly so.

17 Now, that's his answer. That was his answer under
18 oath. What's the actual answer? Of course it's Low's money.
19 He says I'm speculating. Of course it's Low's money. I mean,
20 does he really expect us to believe that a Kuwaiti Shaikh gave
21 him 145 million Euro? I mean, it's like somewhere between
22 Santa Claus and the Tooth Fairy except it's a Kuwaiti Shaikh
23 and he's giving away \$165 million. It's preposterous. It
24 didn't happen. It didn't happen that way. So why doesn't he
25 just get out here and say of course it was Low's money? Why

Summations - Mr. Agnifilo

5391

1 is he still playing games even at his own testimony? And I
2 submit to you it's because he just can't do it. His mouth
3 doesn't let him actually just say the truth, so he has to keep
4 it cloudy: I'm speculating, I don't really know. But of
5 course it's Low's money. And one of the reasons you know it's
6 Low's money is that \$49 million of it goes to pay a 1MDB bond
7 interest payment. Now, I don't know that Shaikh Al-Sabah
8 would have any interest in using 50 million of his dollars to
9 pay a 1MDB bond payment, but Jho Low does. So this is Low's
10 money. And so what he's doing in 2016 and 2017 -- and part of
11 the point of this is that, you know, once a coconspirator,
12 always a coconspirator. There's no such thing as a cameo
13 coconspirator. Here, I'm here, I'm going to collect my 35
14 million, I'm now done. I earned my 35 million, I'm not going
15 to do another thing. That is not what you see in the
16 evidence. If you're in, you're in for the long haul. If
17 you're in in 2012, you're in in 2017. If you're in in 2012,
18 you're in the whole way. And that's what Leissner is showing
19 us, he's in the whole way. Because here we are 2016, 2017,
20 he's still laundering Low's money. He's still laundering
21 Low's money and paying 1MDB bond interest payments. Because
22 these deals don't just end when they close, they keep going.
23 The coconspirators have to maintain the fraud. They have to
24 maintain the theft. They can't let it blow up. If an
25 interest payment is due, you have to pay it. And if you have

1 to pay it, you need the money to pay it. And this is how
2 they're going about doing it. There's no Kuwaiti Shaikh.
3 That's preposterous. This is Low's money and he's laundering
4 Low's money as late as 2017.

5 2018. May 2018, he goes to Lichtenstein. Okay? He
6 goes there with Kimora Lee Simmons in 2018. Why is he in
7 Lichtenstein in 2018? They have super good bank secrecy. And
8 he's going to store \$150 million, \$150 million in a trust in a
9 Lichtenstein bank to get as far from the United States as
10 possible. This is May of 2018. This is three weeks before he
11 gets arrested. All right? So he's in Lichtenstein.

12 The other thing he's doing in May of 2018, he's
13 renewing his Brazilian passport. He's renewing his Brazilian
14 passport because he's having an affair with his Brazilian
15 nanny. Now, that came out right in the beginning of his
16 testimony. It might have gone right over your heads, but he
17 said it. And what he's saying is that he and Kimora had a
18 Brazilian nanny named Maria and he's having an affair with his
19 Brazilian nanny Maria who takes care of Kimora's kids. Okay?

20 Now, put that aside. The important part of this is
21 he texts with Maria: I think Brazil would be a good place for
22 me. Darn right. You know what? He's a Brazilian citizen.
23 He is a citizen of Germany and he is a citizen of Brazil. It
24 is now May of 2018. Less than a month before he gets
25 arrested, he's trying to put his money in a Lichtenstein trust

Summations - Mr. Agnifilo

5393

1 to keep it away from everyone and he is making real plans --
2 real plans -- to go to Brazil and live as a Brazilian citizen
3 in Brazil.

4 But none of that turns out because he gets arrested.
5 He gets arrested and he realizes he has an opportunity to do
6 what he does best. He might not do so well as a fugitive
7 living in Brazil. It's probably a hard life. And there's no
8 reason to believe Tim Leissner is all that tough. But you
9 know what he's good at? He's good at lying. And just like he
10 can handle being married to two women at the same time, he can
11 handle this process. He can handle this process with the FBI,
12 he can handle this process like a champ. He can handle this
13 process and close the deal. He can handle this process, close
14 the deal and win. And he's in this to win this. And that's
15 what he's about.

16 Along the way he steals over a million dollars,
17 \$1.25 million from Roger. Steals it. He didn't borrow it.
18 Roger didn't give it to him. He stole it. You know how we
19 know he stole it? We know he stole it because when the
20 money's coming over, he writes to Osman Erlap: The 500,000
21 should be in by tomorrow, my bank told me. Sender will be
22 coming for my accountant Roger Ng. Please look out for it.
23 His accountant? He is leading everyone to believe that is his
24 money and his money is being sent by his accountant, Roger Ng.
25 He is flat out stealing that money.

Summations - Mr. Agnifilo

5394

1 Now, he didn't admit it on the stand, no one made
2 him admit it on the stand. He gets to say, well, I was going
3 to pay it back. No one ever asked me for the money. No one
4 ever asked you for the money? Roger has no idea about this
5 e-mail. You're doing this behind his back. You're stealing
6 his money. That was your business partner in Celsius and
7 you're just flat out stealing his money and hoping that no one
8 notices, hoping that you can just pawn it off, you know, as a
9 loan, pawn it off as maybe a gift. But he stole that money.
10 Make no mistake.

11 And Hwee Bin Lim told you, she asked him: Where are
12 our shares? Where are our shares? And he put it off and put
13 it off. Yeah, you'll get it in October. I'll transfer the
14 shares in October. He stole that money flat out. He did not
15 have to plead guilty to it, he didn't have to admit it, he
16 stole it. And you know he stole it because you know that
17 e-mail. And you should absolutely conclude, 100 percent, he
18 stole it. He can deny it all he wants, just like he denies
19 everything else, it doesn't change the fact.

20 And that's not all. There's another million dollars
21 incentive and he stole that, too. And you know what he did
22 with all of it? That's all the money he was sending to
23 Lichtenstein. He's not giving it to Roger. You want to give
24 it to Roger? Give it to Roger. You know where he is. He
25 doesn't want to give it to Roger. He never wants to give it

1 to Roger.

2 And when he was testifying, we did the math on the
3 Celsius shares. \$1.25 million back then would be over
4 \$50 million today. \$50 million. That would be Roger Ng's
5 money, real money. That would be his actual money. And it's
6 been stolen.

7 So if you need to look for a motive, why would
8 Leissner get here and testify falsely against Roger Ng of all
9 people? There's a heck of a reason. One, he wants to avoid
10 jail, a place he's never seen. And two, you know what, I
11 don't want to pay back \$50 million or \$1.25 million or
12 \$2 million. I don't want to pay any of it back. So I'm going
13 to come in here with my motive, my crystal-clear, razor-sharp
14 motive and testify falsely against Roger Ng, and that's why
15 he's here. That's why he's here. And that's why he doubles
16 down and doubles down and doubles down.

17 He's not here to give you facts. He is here to win.
18 He is here to close this deal, to walk out of here without
19 getting a day of jail time, to get Roger convicted, and to
20 make sure that he gets to keep his money. And the
21 government's like oh, well, you forfeited that money. He
22 forfeited Roger's money. He forfeited Roger's money. He's
23 getting credit for Roger's money.

24 I want to talk about venue for a second. You guys
25 have to decide venue, not -- this isn't -- this is one of the

Summations - Mr. Agnifilo

5396

1 things you guys have to decide. The elements of the crimes
2 are decided beyond a reasonable doubt. Okay? It's a much
3 higher standard. Venue is decided by a preponderance of the
4 evidence. It's your decision. If you guys decide that no
5 part of the crime happened in the Eastern District of
6 New York, then you find that venue here is inappropriate.
7 It's a jury's decision. The Judge will give you instructions
8 on venue. You should follow the instructions just like you do
9 all the instructions, but at the end of the day you have to
10 decide two things: One, did some act in furtherance of the
11 crime happen in the Eastern District of New York? And the
12 Eastern District of New York is Brooklyn, Queens,
13 Staten Island, Long Island and then the waters, you know, sort
14 of in between. Okay? That's what the Eastern District of
15 New York is.

16 And that's why we had that testimony of, you know,
17 where do the phone lines go and did Leissner go over a bridge
18 when he went from here to there, because you actually have to
19 decide if this is a proper place to have this trial. It's
20 your decision. And it's a proper place to have the trial if
21 some act in furtherance -- if the defendant, if Mr. Ng,
22 committed some act in furtherance of the crime. Okay? You
23 all listen to the Judge's instructions, but it's a decision
24 you guys make. Or if someone else committed an act that's in
25 furtherance of the crime, is it foreseeable to Roger? Okay?

Summations - Mr. Agnifilo

5397

1 Roger, as you know, lives in Malaysia. Do you
2 really think he has the vaguest idea what bridges go between
3 New Jersey and New York or the Bronx and New York or where the
4 cables go that the electronic impulses travel on? I mean, you
5 know, the old adage, it's like trying to stick a square peg in
6 a round hole. I mean, does this seem right? Does this seem
7 fair?

8 I mean, venue is a real thing. And it's something
9 that you guys have to find. It's not imposed on you. Just
10 because we're here doesn't mean this is the right place to be.
11 You have to decide venue by a preponderance of the evidence
12 based on the Judge's instructions and you have to be the ones
13 that find that some act in furtherance of the crime took place
14 in the Eastern District of New York by Roger. And if it was
15 by one of the other coconspirators, whether it was foreseeable
16 to Roger.

17 So, venue is not something just to gloss over; you
18 guys have to actually find it. And if you find it's
19 appropriate, then you go on to consider the other elements of
20 the crimes charged. If you find venue is inappropriate, you
21 have to find him not guilty, because he's not supposed to be
22 here.

23 All right. I want to talk about why the four
24 payments to the Silken Waters/Victoria Square accounts are
25 different than the other payments in the case.

Summations - Mr. Agnifilo

5398

1 The first is, there's no bogus agreement attached to
2 them. Okay? This is very, very important. All right? So
3 when Leissner was testifying, for instance, about the Midas
4 payments, he said all of those payments were accompanied by
5 false agreements, agreements that said, you know, this company
6 is giving money to this company because they're involved in
7 some business deal or, you know, one is buying steel from
8 another. It's false. It's a way of basically having a
9 written signed document so if the bank says hey, what's up
10 with this transaction, you have a written signed document.
11 Okay? And what you see in the case across the board is the
12 larger transactions have written documents with them. But
13 here we have a \$17.5 million transaction, the first one, no
14 written documents. No written documents, why? Now, remember
15 what Leissner said. Leissner said this was all Low's
16 decision. The one who decided that there should be written
17 documents was Low, all right? And Low provided the documents.

18 So you don't see it on the payments from Capital
19 Place to Silken Waters/Victoria Square for two reasons. One,
20 Low's not involved. Low's not involved. If Low was involved,
21 you would see written documents for the larger payments. So
22 the first is that Low is not involved. Second, is that
23 there's nothing wrong with the payments. The payments are
24 fine. The payments are repayments for a debt. The payments
25 aren't bribe payments, you know, to some public official or a

Summations - Mr. Agnifilo

5399

1 kickback or anything like that. The payments are fine. So as
2 a result, you never, not one time in all of the four payments,
3 you never see a bogus written contract accompanying the
4 payments.

5 Second, there's never an e-mail or a text that Low
6 is directing the payment. Okay? So for the others, remember
7 sometimes we'd see like four of them or three of them in one
8 e-mail and there would be an e-mail from Low or one of Low's
9 people to Leissner's -- you know, usually his capital
10 advisor's e-mail address? Pay -- you know, pay Springbrook,
11 pay such and such, pay such and such. Leissner is being
12 directed by Low or one of Low's people to make the payment,
13 you know, and then Leissner makes the payment. Leissner
14 doesn't make the payments on his own. It's not his money, you
15 know, at least that part of it. But with the Silken
16 Waters/Victoria Square, you never, ever, ever, not one time,
17 you never see an e-mail or text message from Low saying hey
18 Leissner, you know, hey Judy, whoever, pay this, you know, pay
19 the money to Silken Waters/Victoria Square. You never see the
20 Low component. And that's critical because this is all driven
21 by Low. And when Low is in charge and when Low is directing
22 the payment, you see something. You know, you see something,
23 whether it be an e-mail, whether it be a text message, whether
24 it be something. You don't see it in the four that go to
25 Silken Waters/Victoria Square.

Summations - Mr. Agnifilo

5400

1 The timing also doesn't make sense in terms of the
2 payment. Roger doesn't do any work on Catalyze, yet two of
3 the payments come after Catalyze. There's no rhyme or reason
4 to -- you're just sort of seeing -- you know, you're seeing
5 the 35 million as the initial payment.

6 And let's keep this in mind because this, I think,
7 is very important. All right? What's the total debt that
8 Judy owes Hwee Bin? \$35 million. What does Judy pay Hwee Bin
9 at the end of all this? \$35.1 million. What's the first
10 payment that goes from Capital Place to Silken Waters?
11 \$35 million. Okay? Is that a coincidence? I don't think
12 it's a coincidence.

13 I think what happened is this. Based on the fact
14 that it's \$35 million both times, Leissner must have said to
15 Low -- there's no other explanation -- my wife owes a debt of
16 \$35 million. And that's why that payment is made, because it
17 makes no other sense otherwise. Now, Leissner doesn't pass --
18 Leissner doesn't allow the whole \$35 million to pass on, they
19 do half. So what essentially happens is Leissner takes half
20 and Judy takes half. Leissner wants to kind of like, you
21 know, keep some of the money. But it's too much of a
22 coincidence that the debt that's owed is \$35 million and that
23 the first payment is \$35 million. That can't just be a
24 coincidence.

25 Now, we don't know because we don't know what Judy

Summations - Mr. Agnifilo

5401

1 and Leissner discussed and we certainly don't know what
2 Leissner and Low discussed, but you can't help but notice that
3 the number is the same, that at the end of all four payments,
4 the total is \$35.1 million and that the first payment is
5 \$35 million. And that's what Hwee Bin said she figured she
6 would be owed. I think it was on 220 million RMB, roughly
7 translated to about \$35 million.

8 So again, it's a certain amount of speculation
9 because we don't know the actual discussion that took place,
10 but the number is certainly the same and that would indicate
11 exactly what we've been saying all along, that this is payback
12 of the debt, you know, Hwee Bin and her family's debt because
13 the first payment is 35 million and, at the end of all of it,
14 it's 35.1 million.

15 I have five minutes and I am going to end in
16 five minutes.

17 All right. Other things that make this payment --
18 these payments different.

19 There's never any e-mail sent to Roger from the
20 capital advisors that wind up. That's just not an e-mail
21 address that Leissner used with Roger.

22 Also, the 35 million, what conceivable thing could
23 Roger have done to earn \$35 million? It doesn't make any
24 sense. Jasmine Loo, who is a government official and who is
25 in this thing for years and years and years and years, got

Summations - Mr. Agnifilo

5402

1 \$12.6 million. Okay? She made this possible. Without
2 Jasmine Loo, this doesn't happen. She is the person at 1MDB
3 who makes this happen. She's also -- now, I know Leissner
4 denied it, but, you know, he also told the FBI that he had
5 dates with her. I don't know if the word "dates" means -- you
6 know, he said he uses the word "dates" differently than we use
7 dates. Tell you what, he used dates; dates means dates. You
8 know, so I don't know what their relationship is, but Jasmine
9 Loo only got \$12.6 million.

10 Terence Geh, critical, right in the middle of the
11 1MDB stuff, critical government official, member of 1MDB gets
12 \$2 million. What does Roger do? What has Roger done to get
13 \$35 million? It just makes no sense. It's so out of line
14 with all of the other things.

15 Jerome Lee, another government official, \$1.7
16 million. It just makes no sense. It's too much money. And
17 it's \$35 million because that's the debt. Roger didn't earn
18 \$35 million. Roger is not involved in this at all. But the
19 fact that it's \$35 million, just it doesn't make sense from a
20 common sense perspective when you see what other people got.

21 Also, if Roger was involved in this, wouldn't he be
22 the one paying all the Malaysians? Remember when the
23 government pointed out all these different 1MDB people are in
24 Roger's phone contacts? He knows them all. I mean, if he and
25 Leissner were in this together, Leissner would not be the one

Summations - Mr. Agnifilo

5403

1 bearing the risk. Leissner would not be the one doing this
2 with his wife. He would have Roger, his underling, the person
3 he can boss around, pay these bribes, especially when so many
4 of the bribe recipients are Malaysian, just like Roger. The
5 only explanation for Leissner being the one to pay all these
6 bribes to all of these different Malaysian people whom Roger
7 knows well is that Roger is not involved. Because if Roger
8 was involved, you could bet your bottom dollar, Roger would be
9 paying those bribes and not Leissner.

10 So Tim Leissner admitted that -- I think Mr. Van
11 Dorn said that Leissner got \$72 million out of this and his
12 forfeiture was \$43 million. And I think we had confronted
13 Leissner with a number that was closer to \$89 million and
14 Leissner forfeited \$43 million. What's the extra money for?
15 Why does he get to keep his Beverly Hills house? Why does he
16 get to keep all the other money? They're investments.
17 They're investments in something called Genetic Finance,
18 \$2 million; he gets to keep it. Something called
19 Friendsurance; he gets to keep it. His \$25 million Beverly
20 Hills home, he gets to keep it. He gets to keep the balance
21 between 89 million and \$43 million? And crime doesn't pay?
22 Crime certainly pays.

23 Here's the bottom line. The government caught the
24 person responsible for this, and the person responsible is Tim
25 Leissner. And Tim Leissner, being comfortable with lying,

Summations - Mr. Agnifilo

5404

1 knowing he can go into this and lie, decided to go into this
2 and lie. And so far, he has done nothing but win. But he's
3 not believable. Bottom line, he's just not believable.

4 And bottom line, there's just no other evidence that
5 Roger did anything. No one from Goldman Sachs came in here --
6 in my opening statement, I said the only person who would
7 implicate Roger Ng in criminal activity is Tim Leissner and
8 that has turned out to be true. Of the 40,000 people in
9 Goldman Sachs, the government couldn't find one of them to say
10 you, you violated our accounting policies, you did this, you
11 did this. This is all the government coming after the fact
12 and saying Roger did these things that violated Goldman
13 internal policies, no one from Goldman. Goldman didn't go to
14 the government. The government went to Goldman. And Roger is
15 basically the fall guy for this whole thing. And Leissner is
16 looking to close the biggest deal of his life.

17 In closing -- and I know people have to go and we're
18 going to end in three minutes.

19 In closing, as Hwee Bin said, Roger has been away
20 from Hwee Bin and his child for three and a half years. It's
21 time for him to go home. He didn't do any of these things.
22 And he's trusted an American jury with his fate, and he
23 should. And we've had a trial and you've heard the evidence
24 and I'm asking you to find him not guilty on each of the three
25 counts.

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1 And I thank you for your time and your dedication.
2 And you've all extended yourselves and I want you to know
3 we've all noticed and we appreciate it. Thank you.

4 THE COURT: Members of the jury, we are going to end
5 for tonight.

6 As I indicated, tomorrow morning you will hear a
7 rebuttal from the government and then I will charge you on the
8 law.

9 You still cannot discuss the case among yourselves.
10 I will see you tomorrow morning at 9:30.

11 (Jury exits.)

12 THE COURT: I will see the parties tomorrow.

13 MR. AGNIFILO: Yes, Judge.

14

15 * * * * *

16 (Matter adjourned to April 5, 2022, at 9:30 a.m.)

17

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